

had? Could he have thought under such circumstances justice was likely to be done to him? Moreover, *was* justice likely to be done to him? I venture to think not; for although Colonel Phayre imagined and stated that Bhow Poonikur was a most upright and highly honorable man, I venture entirely to dissent from that opinion, and to think he was nothing more than a spy, and a person who, with other persons too numerous to mention, was hunting up for that very information which the Gaekwar is accused of obtaining—hunting it up in much the same way, not perhaps receiving for it specific sums of money, but receiving Colonel Phayre's patronage which would put more in Bhow Poonikur's pockets than a few rupees would do, as it would show that he had the ear of the Resident; and it must be remembered that this man must have appeared before the eyes of the Gaekwar as being a person who, in all human probability, was controlling all the actions of Colonel Phayre. Is it wonderful then that the khureeta of the 2nd of November should have been framed? Of course the gentlemen of the Commission have all the dates in their minds, so that I need not ask them to recollect them particularly, but in dealing with it, it seems to me to be a matter of importance to remember this date,—I allude to the 2nd November. Immediately previous to that time the khureeta was being framed. It must have been a subject of very grave deliberation. It is, as far as my humble judgment goes, a very admirable document. Everything is put most fairly, most temperately, and at the same time argumentatively, while not leaving matter upon bare assertion without proof. Two or three cases are quoted of what he alleges to be the gross injustice perpetrated against him by Colonel Phayre. The case propounded by the prosecution is that at the very time this khureeta was being prepared, simultaneously with it—day by day and hour by hour it must have been going on—arsenic, diamond dust, contrivances of kinds that are the dreariest remains of ancient superstition, bottles containing poison, such as one may read of probably in the *Arabian Nights*, but which I should have thought would have been hardly alluded to in the darkest places in the nineteenth century. But all this time while a great State document of great importance was being prepared with care, and argued out with judgment—while this is being prepared by himself and his ministers, he is accused of mixing himself up with a parcel of scoundrels, and inviting them to poison the man whom he must have known perfectly well, would have to answer this khureeta, and whom he also must have known it would be perfectly useless to act in any way whatever against, till this khureeta was answered. Of his object I shall say nothing more at present; but when I come to objects I shall have to say a good deal. There are grave matters in this case that will present themselves, and I cannot help thinking, before it is concluded, the real criminal will be traced. I cannot help thinking so. But talking of the probability of the Gaekwar being that criminal, I wish to impress—and this is a matter that I shall have to dwell upon hereafter—as strongly as I can on the minds of the Commission, that such an outburst as would arise from the successful poisoning, or unsuccessful attempt to poison, must, in all human probability, have utterly prevented any attention being paid to the khureeta. In this particular instance the Viceroy appears to have attended to it immediately, and notwithstanding this alleged attempt occurring, to have answered the khureeta in most favorable terms. But it appears to me if the Resident had been poisoned, in all human probability there would have been an end of the enquiry raised by the Gaekwar, and that the greater subject connected with the kingdom, the poisoning of the Resident, of the Queen's representative in that kingdom, would have smothered everything like an enquiry into other matters, and probably would have led to a deposition of an entirely different kind, upsetting from the beginning to the end all the endeavours of the Gaekwar for the purpose of obtaining what he considered justice at the hands of the Viceroy. I submit that would be the natural result,—in point of fact—I should say the almost certain result of such an attempt whether successful or not, therefore I venture to think that the two things are totally

inconsistent: that the khureeta and poisoning do not agree; that they do not go hand in hand; that they are poles asunder; that they diverge of necessity; that the man whose mind was on the khureeta would not do anything that would be likely to make that khureeta of no effect, and at the same time bring another Resident, together with, as he must have known, the severest investigation, and one that might be attended with the most dangerous consequences. Having remarked on the conduct up to that time of the Gaekwar, I wish now to proceed to the period when suspicion, or rather before I arrive at that, I wish to call your attention to the conduct of the Gaekwar during the interval, when you have been told by Sir Lewis Pelly, he was free from all restraint, under no watch, and not interfered with in any way whatever. The suggestion of the prosecution is that upon this man's mind is the knowledge of this heavy crime, and he also knows, if the story be a true one, that the immediate actors in this crime are persons who have been already suspected, that enquiries have been made, and that the train is laid by which ultimately the truth may be arrived at. At this period his Secretary Damodhur Punt was not under charge. Damodhur, who certainly, whatever other elements may be wanting in his constitution, is not wanting in intelligence—would of course have communicated with him, and according to Damodhur Punt's evidence he had communications with him: so if Damodhur Punt's evidence is to be believed, his mind was quite alive on the subject, at all events his mind would necessarily be alive from the fact of Rowjee and Nursoo having been taken into custody, and this matter being investigated. Well, during all this time he has control of all the means connected with his Government. The control of money sufficient for the purposes I am about to suggest, and the question is what his conduct was, and whether that conduct is what you would expect the conduct of a guilty man to be. I submit that it was not. On the contrary, it was the conduct of an innocent man. It is not pretended that he had communications with Rowjee or Nursoo; or that he, either by his agents or otherwise, endeavoured to get them out of the way. It is not suggested that any attempt was made by his agents or others to bribe them. He remains there knowing, if the case on the part of the prosecutors is a true one, that he was sitting upon a mine to which a match might be at any moment applied; knowing that he must be necessarily blown up by it, and yet there he remains careless, pursuing his ordinary avocations, seeing Sir Lewis Pelly each day, dealing with Sir Lewis Pelly anxiously for the purpose of meeting the views of the Viceroy daily in the town, daily having an opportunity of seeing Rowjee, daily having an opportunity of seeing Nursoo, his secret agents, I suppose he would have no difficulty in finding some whom he could use for his purpose, and there is not a single act from the beginning to the end of that period—and I urge this upon the Commission—that is indicative of anything but the most perfect freedom from being guilty of the subject of the matter that was then being investigated and now is charged against him. A very few words more about him. I had intended rather to have deferred my observations upon this matter till a later period, but one does not always follow the exact arrangement that one has made, but having alluded to it, I will now conclude my observations upon the subject of his conduct, by begging attention to the evidence given by Sir Lewis Pelly yesterday as to his conduct when he was requested to send Yeshwuntrao and Salim to the Residency. I think I may ask you to refer to the correspondence which I put in on that subject. Sir Lewis Pelly left no doubt whatever as to what was the nature of the enquiry, and as to his object in asking for the presence of these two persons. What was the conduct of the Gaekwar himself? It may be great deceit and it may be great hypocrisy, but it is a deceit and hypocrisy that he has not shown in any other part of his career. It may have been great deceit and great hypocrisy, but it is inconsistent with anything you find in the earlier period of his conduct regarding the matters which have given rise to this trial. It may have been deceit and hypocrisy that he exhibited, but bear in mind that he sent Salim and Yeshwuntrao without hesitation, without a moment's



delay, and without any communication having been made to them by any human being, they were permitted to come to the Residency and state all they knew about the matter under the hands of acute police officers; under the hands of authority, under the hands of the law. He knew the power of the law, he knew the power of the English Government, he knew how much could be brought to bear upon a person against whom there is an accusation by the British Government. And yet the supposed attempted murderer has never interfered with any of those persons, never attempted to corrupt them, or buy them over, and when their presence was required at the Residency, he immediately without communicating with them, ordered them to go there, went himself, offered himself in every way to give every assistance; and I take the liberty of saying that while his interests and his conduct militate against his contemplating the act of poisoning, his subsequent conduct showed as conclusively as a man's demeanour and conduct can show, that he had never been a party to it. I submit for your better consideration and judgment these observations upon the subject of what his conduct was both before and after this charge, and I hope you will not consider that I am too sanguine in supposing that they are likely to have great effect on your minds, and that effect of a kind much calculated in favor of the Gaekwar. At that time, as your Lordship is aware, I mean during that month while the Gaekwar was at liberty and free from anything like restraint, Salim and Yeshwantrao were his servants, under his control, and there would have been no difficulty whatever in their removal if it had been desired. Another remarkable fact in this case is that while there is evidence of sums of money of a comparatively small amount being paid, as was supposed, for information to the ayah and to others—I say comparatively small amount because as far as I recollect the evidence the amount is small, your Lordship will correct me by your notes, if I am wrong, I am speaking now without looking at my notes, but as far as I recollect there is not a half-penny supposed to have been paid to any of the alleged actors in this murdering transaction during the whole of the time during which the transactions were being carried out. I think I am right in saying that it was about August or September, certainly not later than these months, that any sums of money whatever were paid, and while it is supposed the Maharaja is spending money recklessly for the purpose of obtaining information, there is no evidence that a farthing was paid to any of his accomplices in the murder he contemplated. There is undoubtedly another instance in this case of remarkable modesty and self-denial on the part of Rowjee and Nursoo—one is glad to find any good qualities remaining in their constitutions—they never seem to have asked for any money. My Lord, you see that we were in the hands of these men, for supposing they had told that they had received sums of money, probably they would have had to show how they had spent it, so that they dared not assert it. If that is the case, we have, I think, a feature quite unnatural, that a Prince should put himself absolutely in the power of half a dozen of his subordinates, because one of the curious matters in this case is that the Gaekwar, who is said to be rather reticent in one of the examinations, seems to have been extremely anxious to parade in a most unnecessary fashion his intention to poison Colonel Phayre, and if, in point of fact, he had been anxious to make up a case against himself, he could not have gone more effectually to work, for while one instrument would have been quite sufficient, he seems to have taken endless opportunities of proclaiming his intention, and surrounding himself with conclusive evidence of four or five witnesses, at least four of whom were quite unnecessary for the purpose he is supposed to have had in view. There cannot be a more remarkable instance of that than Nursoo himself, for if you look through the whole of his evidence, I ask you whether that man has been brought here for any purpose except to corroborate the lies of Rowjee, for from beginning to end he was useless in the transaction, and he is brought into the presence of the Gaekwar for no earthly purpose in connection with the crime that was about to be committed. All that I find about him is that “Salim will hand you so and so.” They make him an intermeddler, and an entirely unnecessary accomplice to the crime.

Not very natural, not very probable this. But Nursoo's fate leads him into most unhappy matters and entails upon him most unhappy consequences. I fear, my Lord, that in pursuing a consecutive argument,—the materials are so abundant, as the investigation has lasted such a long time,—that somehow or other, in the arrangement of matters, I may get into confusion, but I shall leave it to the Commission to put my omissions right—I shall endeavour to be as clear as possible, and I shall also endeavour to be as concise as possible. I think, my Lord, it may not be undesirable that I should refer more particularly to the case as it has been put before you—and, for that purpose, I shall refer to the speech of my learned friend the Advocate-General—a speech in all respects worthy of the high position he holds—perfectly temperate, and fair, and not an observation introduced into it, about which, on the part of the Gaekwar, I feel I have the slightest right to complain; in fact, I may say that one of the pleasures I have had in the conduct of this most painful and anxious case, has been the continuous courtesy I have met with from my learned friend, and the assistance he has afforded me, whenever he could justly give it to me. I propose, as I have said, to refer to his speech, because it is a careful speech, and has been founded upon instructions carefully given. I call your attention to the mode in which he places this case and the features to which he invited the attention of the Commission, as being those upon which he should ask your judgment adversely to the Gaekwar. He divided the matter into the charge of tampering with the servants in which he suggested the sayah as being one of the principal performers. I ought, however, before I comment upon what my learned friend did open, to refer to one very remarkable omission in his speech. The omission must have been deliberate, and so far as I can see, it is omitted of necessity. He does not from the commencement to the conclusion of his speech suggest any motive that could have actuated the Gaekwar to commit this crime. It has been left to me to bring out the position of the Gaekwar and his course of proceeding to show what motives he had, and comment upon these motives, and what they probably would have led to, but my learned friend suggests no motives, although he must have well considered this matter, it must have occurred to him as the first thing that should be dealt with in proving a great crime like this; but my learned friend has been unable to put his finger upon any single position that existed in connection with the Gaekwar that would have shown whence a reasonable motive could have sprung for the commission of this great crime with which he is charged. I say he alluded to the tampering of the servants, but he did not suggest or allege that there was any connexion between the ayah, Rowjee, and Nursoo. What is also very remarkable is the following fact, which I shall ask your permission to say a word or two about. The Advocate-General introduced into this part of the case a person of the name of Pedro, who, according to my learned friend, was chief butler, and had been butler for some five and twenty years, and whom he connected with that branch of the case which I have described as being the tampering with the servants. After the mention of Pedro, my learned friend says, "I now come to the more important part of the case." So that he divides the case into two parts—the acts of the ayah, and one or two other persons, and the acts of Pedro, in connection with the tampering of the witnesses, and then he goes on to the acts of other persons in support of the allegation of poisoning. It becomes important that we should consider the mode in which my learned friend has introduced the man Pedro, who forms a most important feature in this enquiry. I have no hesitation whatever in saying that independent of almost every other argument in the case, and taking a certain view of the case, the evidence of Pedro entitles the Gaekwar to an acquittal on all the charges brought against him. It becomes therefore extremely important to consider how my learned friend has dealt with Pedro, knowing perfectly all that Pedro had to say, knowing who Pedro was, and having to introduce him to your notice. Now, my Lord Chief Justice who presides is well aware how witnesses of a certain kind may be introduced into a case. Supposing their testimony is at all suspicious—there may be a doubt under such



circumstances as to whether they should be produced as witnesses. My learned friend has of course deliberated on this matter. He has not attempted to cast the slightest slur upon Pedro. He has introduced him as a perfectly respectable trustworthy witness, and as a person to be relied upon as proving a particular fact. He had been twenty-five years in the employment of the Residency. I have a right therefore to say that from the beginning to the end of this case, there has not been a suggestion of anything which would cause me to say that Pedro is not amongst the whole group of liars and perjurers who have been introduced to support this case, the one man against whom no imputation whatever is cast. Pedro puts this case out of Court. If Pedro is to be believed, there is an end of it. The entire superstructure must tumble. Rowjee, the main actor, cannot be believed as his evidence stood, but here it is contradicted up to the very hilt, and I will show you internal evidence presently of the truth of Pedro's statement and of the falsity of the statements made by Rowjee. Without, however, entering now upon that particular evidence, I shall deal simply with the particular fact that a man introduced here by my learned friend as a thoroughly respectable witness, competent to prove a fact, a man upon whose evidence he has asked you to find a decision against the Gaekwar, a man who, for aught I know, has been a confidential servant for a quarter of a century, declares in the witness-box here that every word deposed in relation to him by Rowjee is a foul lie and fabrication. My Lord, I feel it very difficult, indeed, to say more upon such a point. It appears to me that as far as Rowjee is concerned, the evidence against him is conclusive, and if you agree with me that upon Rowjee's evidence this case must stand or fall, then Pedro strikes a mortal blow to the whole case, from which I think that even the ingenuity and power of the Advocate-General will not be able to rescue it. He will attempt to avert it with all the fairness which, as the representative of the Crown, desirous simply for justice, he can command; but I think that, notwithstanding it will puzzle him to find an argument to convince this Commission, that if the evidence of Pedro can possibly be believed, it is not possible to believe in Rowjee. I am reminded by my learned friend Mr. Branson, to whom I have constantly to offer thanks for his assistance, that Pedro oddly enough is the only person whose examination does not appear to have been conducted by parties to the case. He was examined at Bombay by a Justice of the Peace and Deputy Commissioner of Police there (referring to Mr. Edginton). There are some things that must be and which can never be denied. I apprehend that, in the first instance, you have such a case. You have got Rowjee and you have got Pedro. You cannot believe both of them, it will be impossible to do so. I shall comment upon Rowjee's evidence presently, and, in the meantime, I shall say nothing more about Pedro's evidence. It is not necessary for me to give a character to a man from whom my learned friend has not attempted to take it, but who, on the contrary, has been relied upon by my learned friend for the proving of what he deems to be an important part of this case. Now, my Lord, my friend, having stated that he had come to the more important part of his case, proceeds to open upon the attempts to poison Colonel Phayre, and I think that your Lordship must have been surprised at the instructions which my friend received upon that subject. My learned friend, in his opening, makes no mention of the earlier attempts to poison. He does not allude to the earlier attempts which are said to have taken place to poison Colonel Phayre, and which form an important part in Rowjee's testimony. I do not remember the dates, but I shall call your attention to the subject afterwards. I merely call attention now to the fact that it is alluded to by Colonel Phayre, but that my learned friend does not mention it in his opening. I can scarcely imagine an omission of that kind to be accidental. Probably my learned friend thought it was so utterly incredible that he did not like to put it gravely before the Commission, and I think I shall be able to show that if such was his idea, that it is a correct one. But whilst he does not speak of these September attempts, he opens upon two attempts by Rowjee on the 6th and 7th November, while Rowjee himself, as the Com-





poisonous to administer, and he accordingly in making up the packets mixes up three packets, principally of the rose-colored powder, and puts in a small pinch of arsenic not calculated to harm anybody into the rose-colored powder; and then he deposited that which was intended to poison Colonel Phayre in his girdle and forgets all about it. I shall have to comment upon the belt episode hereafter. It is a very peculiar and important episode, and is not one of the least indicative of what the case is. It is not wrong that I should refer to that and point out the entire difference between the case my learned friend was instructed to open and the facts which have been proved. I shall be obliged to refer to these matters again at something like great length, but I mention them now to request you to give such consideration as my observations and the facts themselves lead you to consider they are worth. Then, my Lord, my learned friend, being in serious difficulties, having no motive to suggest, suggests that there is a confirmation arising from the absence of communication between all the witnesses. He dwells upon that as being a strong and pregnant evidence of confirmation. Perhaps that would be about the nearest approach to evidence of confirmation that could be given in this case; yet I should say that it was trumpery and trashy—yet perhaps it has some claim to be considered as evidence of corroboration if it were the fact. The only misfortune is that it is utterly without foundation. Not only had the witnesses intercourse together, but they were invited by that respectable gentleman, Akbar Ali, in a most persuasive manner, to give every particulars to him; and they generally made a statement after having passed a not very comfortable twenty-four hours. There seems to be a process—what it is I do not know—that after having been under the gentle care of Akbar Ali, and probably quite accidentally, they are made very uncomfortable in their minds and at once make a statement. That, as confirmation, falls to the ground; and I shall point to a way they were brought together for the purpose of having their evidence manufactured—and how completely it was manufactured from beginning to end—and I shall, I believe, lead your minds to that conclusion which will be pretty well bounded by this. I do not think I need here do more than use the name of Gujanund (I wish he had a name I could pronounce better). I think that when they talk of fairness and of the witnesses having no opportunity of seeing each other and of confirmation from that source, all I need say is—Gujanund. Nothing can be fairer, my friend may say, to these witnesses, and that at least there was candour and fairness. I answer—Gujanund. And if, when Gujanund is fully impressed upon the minds of the Commissioners, and when they remember the active and intelligent officers, as they will be called in the London papers, whose assistance he had on all occasions, I think the notion of the witnesses not seeing each other or knowing what they were about to say is the most comical that has ever been brought before a Court of Justice. Unfortunately, as I have said before, liars who have no foundation of truth to go upon cannot always recollect what they may have formerly said, and therefore, notwithstanding Gujanund, Akbar Ali, and Abdool Ali, who have done all they could for their country and themselves, I do not think it will be believed that the witnesses had not many opportunities of meeting together. But my learned friend had felt that up to this time he had a very unsympathetic case to offer to the Commission. He felt that he had a terrible lot of rogues and a terrible lot of falsehoods, or probable falsehoods, to allude to, and there was nothing whatever in regard to Damodhur Punt and to Rowjee that could redeem them from the depth of rascality into which their own admissions have put them. But at last my learned friend comes to an oasis in the desert of miserable lying through which he had been obliged to travel. He comes upon Nursoo and my friend is at once relieved. There is something to dwell upon, something of innocence, something of virtue—there is repentance. My learned friend alludes to him in this way, and I noticed that when he did so his voice almost trembled as he said,—“One other circumstance in regard to Nursoo deserves to be mentioned. He had been many years in the service of the Residency and held a high position. After he had given his

evidence under the circumstances I have stated, he felt so strongly the disgrace he had incurred and the falsity of allegiance of which he had been guilty, that he attempted to drown himself. There is a deep well near the Residency. One day he broke away from his guards and jumped into the well, from which he was rescued by the police." It turns out, however, that he had had a dinner at the Residency—I have no doubt a very good one. He was standing beside the well and saw people, and he was seized with a vertigo, and then he tumbled: notwithstanding all my learned friend's efforts to push him into the well, he would not go in except by his own act, and my friend could not get him to declare more than that he tumbled into the well. They say that truth is found at the bottom of a well, but on this occasion the police were too quick and rescued him before he had found any. So we pass away from Nursoo. The next matter to which my learned friend alluded, and upon which also he had depended for confirmation, was the demeanor of the Gaekwar when he called upon Colonel Phayre on the 9th November. My friend said: "Colonel Phayre was still suffering from the effects of the poison which he had imbibed, but he did not know at that time, as he had not heard from Dr. Seward, what he had taken. He received His Highness as usual, and was much struck by His Highness in the course of conversation describing to him almost exactly the symptoms under which he was suffering, and saying that there was a great deal of sickness about the town of such a character as Colonel Phayre was at that very moment suffering from. He said that he had himself suffered in the same way." It is curious that such a conversation should take place. Colonel Phayre did not tell Mulhar Rao what he had taken or what his suppositions were at that time—he may have thought something had been put in his goblet. He had no definite idea that he had partaken of poison, not having then seen Dr. Seward. But if Damodhur speaks truthfully the Maharaja knew perfectly well then that the attempt had been made and had failed, because on his driving back from the Residency to the Palace he picked up Damodhur Punt on the road and had a conversation with him about it. That conversation Damodhur Punt will himself relate. My learned friend intended to convey—and probably it would have been an argument of very great weight—that the Gaekwar had wished, having ordinary knowledge enough to know the symptoms of poisoning by arsenic, to divert Colonel Phayre's attention from thoughts of poisoning by endeavouring to convey the impression presented that he himself suffered under exactly the same symptoms from natural causes. I read to you a letter from Colonel Phayre to Dr. Seward or Dr. Gray—I see it is to Dr. Seward: "Although I only took two or three sips of the pummelo juice which the tumbler contained, I felt within about half an hour, as I described to you, a most unusual sickness of stomach, accompanied by dizziness in the head and of sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth, with slight salivation, such as I have never experienced till within the last few days." These are the symptoms described by Colonel Phayre, and those are the symptoms my friend is instructed to say are identical with those which the Gaekwar attempted to make Colonel Phayre believe he was suffering under from natural causes. I have therefore looked into what the evidence of Colonel Phayre was upon the subject. He says: "I asked His Highness about his health, and he said that he had not been very well, and that there was a good deal of fever about, and he thought he must have eaten too many sweetmeats of the kind usually made at the Dewallee. He also said that he had headache and a slight pain in his stomach, but he was well now." It is rather difficult to associate the description which he gives of the slight pain in the stomach from eating sweetmeats with the coppery taste, the dizziness, and the slight salivations described by Colonel Phayre, and I believe another observation was made as to there being something unusual in asking Colonel Phayre about his health. Indeed, I am reminded that Colonel Phayre led up to the question by speaking of his own health. When I look at Colonel Phayre's evidence, I am warranted in saying that the whole of the Gaekwar's demeanor to Colonel Phayre upon that morning was one nothing approaching



guilt, but was the perfectly natural demeanor of a man who generally visited Colonel Phayre on that day—it was not a demeanor, in fact, that could have excited suspicion in the remotest degree in the mind of the most suspicious person. I have thus, my Lord, dwelt with my learned friend's speech, which is valuable, not only for its ability, but as pointing out in the clearest manner what his view is of the evidence. Now, he says that this case depended upon Nursoo and Rowjee; he admits them to be accomplices in the crime they say was committed, and that he considers that according to ordinary practice—and the practice will be observed in the present occasion—that confirmation of some kind is necessary; and he undertakes to give that confirmation. He gives three samples—one is that the witnesses were kept separate. I have already referred to that to show that wherever traceable the contrary was the fact. Will any one for a single moment doubt that there is any honest confirmation in the conduct of Nursoo, a man who, although very wicked on one occasion, when his fate led him to attempt murder, was a man who had the merit of showing repentance, and exhibiting his sincerity by attempting to pitch himself into a well? With what object was he introduced into the case? Did the Maharaja on any occasion give him anything to do? He has done nothing—that also has fallen through. Another point was the demeanor of the Gaekwar and his allusion to his own maladies which he says were identical with those of Colonel Phayre—that also tumbled down to the ground. He has failed upon the one point on which he relied to give confirmation. He has opened with Pedro as a witness to be relied upon to give confirmation. He has opened with Pedro to be relied upon, making no comment to detract from his evidence and credibility, and Pedro knocks over the main witness upon the most material points, thus showing that Rowjee has upon these points entirely and deliberately perjured himself. Then, if I am right in the observations I venture to make in this portion of my address upon this point, we are now left entirely and absolutely at the mercy of the three accomplices; and it is upon evidence of such witnesses, filled with other inconsistencies, that you are asked to deprive the Gaekwar of his honor, of his property—to cast him forth as a helot in the world from whom all would shrink—a man whom, if you were sitting here in another capacity than that of Commissioners, if you were sitting here as jurymen—a man whom without hesitation you would hand over to the scaffold. And this result is asked of you to be arrived at upon the evidence of men admitted by my learned friend to be accomplices, and show I think, up to this time at all events, by the opinions which I have ventured humbly to address you, to be accomplices without a shadow of foundation. I will now—and before going to other evidence, because I may do so with propriety and conveniently—refer to the evidence of Colonel Phayre. He is the central figure in this extraordinary story. Heaven knows that. I have no wish to say a word more than I am absolutely obliged to do calculated to hurt the feelings of Colonel Phayre, who, I have no doubt, is a thoroughly upright and honorable man, and a gallant and distinguished officer; but I venture to think that Colonel Phayre was entirely unfit for the position he held—which was an extremely delicate one—and he was known by the Gaekwar to have met with a reprimand of a most serious kind, not involving, but on the other hand conceding, his honor and integrity, but dwelling upon his want of tact and judgment in the management of delicate affairs. I think I am not putting it unfairly. He said, and no doubt truly, that a subsequent Governor cleared him from this imputation. This gives me no dissatisfaction, but on the contrary I never wished to use that document as charging Colonel Phayre as deserving of the censure passed upon him. I used it simply to show that it was one of those documents operating upon the mind of the Gaekwar and leading him to consider first that Colonel Phayre was scarcely the person to occupy the position he did, and that in the next place that he would be removed upon a complaint being made. Colonel Phayre most imprudently associated himself with a person, or a number of persons, who were not friendly to the Gaekwar. Bhow Poonikur was a speci-



whilst we are considering it with Rowjee's. If his account is true, he really took out all the arsenic from the parcel he had received and deposited it in another parcel and practically only used the diamond dust. Practically he only used that which, supposing it to be admitted, is a perfectly innocent matter, and can cause no pain nor annoyance. It certainly does look as if fancy had worked upon his mind, and that he had recollected feelings which he never experienced, by reading depositions that an attempt had been made to poison him. Then, my Lord, we go on to the subsequent period, the 6th, 7th, and 9th of November. On the 6th and 7th the same incidents occurred. The same symptoms that he had experienced in September and October, and again experienced on the 6th and 7th November—the very same that were afterwards experienced on the 9th. To say the least of it—this is extremely peculiar, because according to the evidence of Rowjee, he had not put the poison in upon the 6th and 7th; and therefore Colonel Phayre must certainly have imagined these symptoms upon those days, and one cannot help thinking with regard to all the circumstances that Colonel Phayre supposed that poison had been attempted to be administered to him upon these particular days. The pummelo juice was bad again; he tasted an unpleasant taste again, he could not drink it all; again he was perfectly submissive, and made no complaint, nor till the 9th of November did it strike his attention that poison had been administered. Now, my Lord, these I confess are matters that I am unable to fathom. At one time it occurred to my mind—I do not say it occurs to it now—but it did occur to it, and to the minds of other persons, and I wish to offer it as an argument to you, and that is, that there was no substantial, real intention to poison the Colonel. I shall have to address many observations in which that point will be an important one to consider. It occurred to me as very strange that persons having such complete access to poison, having also such complete access to Colonel Phayre, with a perfect knowledge of his habits, with an opportunity of dealing with them,—it occurred to me as extremely strange that for so long a time with all these implements at their hands no attempt had been successful, and that in reality Colonel Phayre had never derived any, and in point of fact never complained of any at the time from what were said to be repeated attempts to poison him. That was a matter which it was impossible to lose sight of in a case like this presenting such extraordinary circumstances and so many impossibilities. But when we come to the ultimate act, the description of it greatly puzzled me, and puzzles me to this moment. Colonel Phayre was very resolute in saying that the sediment at the bottom of the glass was a dark sediment. The other witnesses all spoke of light-grey powders, and if that which was analysed, and if the analytical tests have been correct, and if we are rightly informed upon the subject, beyond all question the powder analysed did not in any way answer the description given of it by Colonel Phayre. The tumbler had been put down, and after it had been put down, and after it had remained for, if I recollect the evidence rightly, about half an hour, he threw it away and then was attracted by the appearance of the contents at the bottom. Now you will remember what Dr. Seward said upon that subject. I received his evidence upon a number of points, and I assured him that it was not my intention to offer him the least offence, but directly I spoke about the colour of the powder in the glass, he got out of temper and proposed to keep me here till doomsday. It seemed to me perfectly clear that it was a puzzle to him which he could not make out, for the powder which Colonel Phayre saw was dark, while that seen by Dr. Seward was light. I do not mean to say that eyesight of people does not deceive them occasionally, so that that which is light may appear to them dark and *vice versa*. I have heard that such cases sometimes occur in regard to colours, but, to say the least, it is unusual, and the fact remains that between Dr. Seward and Colonel Phayre there is a direct and altogether irreconcilable difference. Now, the powder—at all events if it was the powder that really remained, for I confess that I cannot understand the difference of the colour





he had drunk a portion of it. I wish also to call attention to the fact that, looking at the number of attempts—putting them at four or six, according as you may be satisfied by the evidence that has been given—I assume that there were about six attempts—on every occasion Colonel Phayre was prevented from drinking the remainder of the glass by the taste that he discovered after drinking a small portion of it. That will not have escaped your observation. That was the case on every occasion that the attempt was alleged to have been made. It will not have escaped the attention of the Commission that the only agents that are supposed to have been used for the poisoning of Colonel Phayre were arsenic and diamond dust, neither of which produce any taste whatever, and no doubt he might have drunk off an entire glass of liquid without having discovered that there was anything deleterious in it until about half an hour afterwards. I believe that is spoken to as about the nearest time at which the effects of the poison would begin to be felt. I shall have to dwell upon this matter again, but having incidentally alluded to it on Saturday, I wish to call attention to it, because I think it is worthy of the attention of the Commission; and when I come to the evidence of Damodhur Punt and others, I think the point of these observations will be sufficiently apparent to the Commission. I propose now to enter into the investigation of the graver charge against His Highness the Gaekwar and the order I propose to do it in is to commence with Damodhur Punt. It is evident that he originates everything, and that from this source whatever poisons obtained, were obtained. There is no suggestion that any other person originated, or supplied the poisons; it is traced back to him; it is intended to be fixed upon him. It becomes therefore extremely important to consider his testimony, and I think it will be better to take his evidence as being the first in order of time. In discussing the witness, as well as of Rowjee and Nursoo, I don't think it will me to allude, before entering into details, to the mode in which has been obtained. I alluded to it shortly on Saturday, and I don't upon it at any length now. I think that I shall meet with the all men who reason the matter fairly, as I am sure it will be when I make the observation that when you find that witnesses suspicious character have placed themselves before a tribunal and light of accomplices, it is extremely desirable to ascertain evidence has been obtained by people of a pure character themselves the mode of obtaining it will satisfy the tribunal that it has an improper way. It is always a disagreeable thing to make observations detrimental to other people; but I am obliged not only to speak of the persons, but of the mode in which this evidence has been procured. Mr. Souter, I have no doubt, is an extremely able man, and he holds a post of importance, I presume, at Bombay. He was perfectly aware of the character of the three persons who are the remarkable persons in this case—Gujanund, Akbar Ali, and Abdool Ali. He was quite aware of the censure that has been passed upon them by, I believe, a man who is acknowledged to be one of the most honored and most eminent members of the bench of India—he must have been well acquainted with this, I say; and whether that censure was right or wrong which had been so passed, he might have reasonably entertained suspicion of the instruments he was about to employ. He might have found other persons in Bombay to serve his purpose, but these three persons—Gujanund, Akbar Ali, and Abdool Ali—seem to have been brought from another district. There is no reason for their having been so brought; they are persons, as I have said before, who have had comments made upon them elsewhere regarding the falsifying of evidence and getting up false cases; and whether these were true or not, I say there ought to have been care taken as to the amount of power that was left in their hands. The mode in which the evidence has been given of these three witnesses (I may also speak of the ayah) is also a matter to which I must call your attention. And I call your attention to it very earnestly, because I think it is a feature in this case that will meet with great observation from one end of this country to the other, as well as in almost





confronted with his accusers and having the matter investigated fairly and properly,—the first thing that is done is to put him under a sepoy's guard; under that guard he remains for seventeen days. The words "being under guard" do not seem to be very terrible, but with the thoughts that must follow it, and with the feelings that must attend it, I think I have not improperly described it as that not of confinement but as amounting to torture. He himself says, "I made the statement for the purpose of getting free from that guard." That is his own perfectly candid statement upon the subject, and probably, whatever doubt he may have raised by his evidence, you will not feel much hesitation in believing that he was speaking the truth. Upon that he was handed over to the care of the police. He knows, at this time, the evidence of both Nursoo and Rowjee. This he admits himself. If he had denied it, it is palpable that he must have known it, because Rowjee and Nursoo were being examined, and had been examined when he was at liberty, and it was natural that he should be interested in knowing what they had stated, and he must have known that that charge was one against the Gaekwar, and that it was a charge of poisoning by arsenic and diamond dust. He therefore has to arrange something or another in which arsenic and diamond dust are mixed up. But, in addition to that, there is a shadowy account of a bottle; and he therefore must introduce a bottle into his statement: and, although he is the first person who is brought into this case by the evidence,—that is, the first person who supplies this bottle,—in point of fact he only gave it after what was expected of him. He knew perfectly that diamond dust and arsenic must be the means by which the Gaekwar should be accused. These were matters with which he was perfectly well acquainted, and with which he was ready to deal under the circumstances that he himself describes. Now what these circumstances are, are worthy of your consideration. They have been eloquently detailed by himself, and I need do no more than call your attention to them. The position of this honorable witness is, "If you convict the Gaekwar, you shall get off; if he gets off, you shall be punished." That is his own account, his own proposition. He is then granted a conditional pardon. "Succeed in what the police have told you to be what they require, and you will get off, otherwise you must bear the consequences of your own admission." Liberty, possibly a grant of land, Heaven only knows how perjury of this kind is ultimately rewarded, might be given to him; but, on the other hand, he would not only not get liberty, but I don't know exactly what the punishment is for having committed perjury or having attempted to commit murder in this country, he would probably be very much more severely punished for not doing what the police expect of him than he would be for the crimes that he has undoubtedly committed. I don't know whether I have ever met before with an instance in which a witness has come forward and made such a direct avowal, and stands before you with a halter round his neck which is to be used or not according to the evidence that he gives. Still, there are marvellous instances in this world in which, notwithstanding so painful a position, a man will sacrifice everything to the truth, but I don't think the warmest admirer of Damodhur Punt would be inclined to think that he would be disposed to make any such sacrifice. He is a clever man—the cleverest amongst the witnesses that have been produced, as far as my judgment has been able to go, an eminently cunning man, who gives his evidence with very considerable volubility—but I could not help thinking that there was an appearance about his countenance as if even he felt a sense of shame while he was uttering what I shall demonstrate to be a perjury, for he made statements which have been materially altered. My Lord, this will make it necessary for me to examine this evidence in relation not only to its consistency with itself, but also in relation to other matters; that is what I propose to do at some considerable length; and I venture to think that when I have done this and called your attention to the evidence of other witnesses who were also called to support this case—Hemchund and other witnesses—I think I shall show you, not only that he has deliberately falsified a number of statements

in this matter, but also that the police have been most active and have made much of a great deal of the evidence which has been produced before you. I, my Lord, particularly refer to the evidence given by Hemchund,—evidence that was manifestly extremely suspicious as, you were of opinion when you allowed him to be cross-examined upon his statement, but evidence which I am now in a position to consider, and I think shall point out, with such material matters connected with it, that I think it will have a very formidable effect upon the conclusion of this case. I think—unless I am very wrong indeed in the conclusions that I have arrived at—I shall show in this case police manipulation, beyond all question, of a most daring and outrageous kind. Of course, I can only judge that of my own humble ability, and I can only submit such reasons as have affected my own mind. I can only hope that they will also affect yours. I shall lay them before you, and I hope, in relation to this and other matters, I shall appeal to your reason as I should wish to be appealed to by those who endeavoured to convince me upon any particular point. The first matter, to which I call your attention, is the position of the man Damodhur Punt. Permit me to describe it, as it occurs to my own mind. I do not think it will be a fancy sketch at all. He is the secretary and trusted servant of His Highness the Gaekwar; he is a man likely to have His Highness' confidence, I admit, and so far they may be enabled to state part of his story as probable. But his position, as he describes it himself, is one of a man whose accounts are rotten to the very core—false entries in all his books—false representations as to what payments have been made for, and, in point of fact, he places himself in a position, that if he had been charged by the Gaekwar, or upon the suggestion of Colonel Phayre, which was extremely likely to be the case, with embezzlement and fraud, he would have had no earthly answer to those charges, his books would have told their own story, the falsifications would have been perfectly apparent, the evidence given by the Brahmin and other people would have shown his entries to be utterly untrue; and, supposing there was no charge against the Gaekwar, I think he, Damodhur Punt, might have howled himself deaf before anybody would have believed that these falsifications had been made at the Gaekwar's direction. Supposing the charge had been made against him, what answer could he have made? How on earth could he in any way whatever have rescued himself from the certainty of being convicted as a fraudulent servant? My Lord, I asked some questions and pressed them to him, and I don't think they were impertinent or unworthy of consideration. I pointed out to him what his position was, and he admitted that which I am now arguing—he admitted that he had no means of answering, no means whatever of rescuing himself from the imputation; and the suggestion that was patent upon that I now venture to make to you,—Is it at all likely that he would have become the instrument of the Gaekwar for the purpose of falsifying books, which falsification admitted his own dishonesty, and to which falsification, if he himself were accused and the Gaekwar chose to be a party to the accusations, he could not have had any earthly answer? And upon that point it is proved that there is not a scrap of writing in the Gaekwar's hand—not an act done in the presence of an independent witness by the Gaekwar from the beginning to the end of this case (but more particularly I am referring now to the falsification of those accounts)—by which Damodhur Punt might have exculpated himself from the charge of embezzlement and fraud. My Lord, I think that is a forcible argument for your consideration against the supposition that they were committed in the way that he stated, and for the purpose that he stated. It is difficult to imagine that he would not have supplied himself with some protection and that he would not have left himself entirely unprotected in the hands of a master who he must himself have known would be after a certain time glad to get rid of him, and to whom he gave the power of getting rid of him. In the history of villanies committed in which great people are supposed to use small instruments, we always find that these instruments generally supply themselves with the means at all events of implicating their principals. I am not aware that I have ever heard in my life of a case in which a man in





will be broken to pieces by other means, but that alone is sufficient to destroy it. But that, my Lord, is not the only feature to which I think it right to call your attention in this order for arsenic. This was an order upon which the Gaekwar's name appeared; the Gaekwar endorsed it. Therefore, as far as we can gather, unless he was a lunatic, he actually puts his own name upon an order for arsenic, which, according to Damodhur Punt, is to be used for the purpose of poisoning the Resident. There is another view that may be taken of this, and that depends upon the view that hereafter you will take of Damodhur Punt. Damodhur Punt may be a mere instrument of the police, and, knowing that he is perfectly safe if he assists them in obtaining a particular object, he may have invented the whole of this matter. But there is another view that may be taken—Damodhur Punt may have had some object of his own in obtaining the arsenic. Look at what his position was at this time. Colonel Phayre was beyond all question using every means in his power to sift the proceedings at the Palace; and, sooner or later, it must have been apparent to Damodhur Punt that his defalcations and frauds would be discovered. That idea must have been apparent. Nothing could have been more perilous to Damodhur Punt than an investigation of his accounts, and in all probability other servants of the Gaekwar might be reasonably supposed to be under the same apprehension. I have already pointed out what such an enquiry would have led to; and if an enquiry had been made against him, there is no doubt his position would have been sufficiently perilous. He was in disgrace admittedly at the Residency; the Gaekwar was never able to take him there; he was not admitted within the walls of the Residency. Under these circumstances Damodhur Punt knew that he was a marked man. He had a motive: the Gaekwar had none. Therefore, it will be hereafter a matter for consideration whether the whole of this story is a lie, or whether when, in point of fact, he admits that he has intended to murder, he has told the truth; and upon that point I shall make some further observations hereafter, when I come to investigate the evidence that has been given by other witnesses; and I think, indeed I feel sure, that when I point out some matters that at present have not been called to the attention of this Commission, that, extraordinary as the circumstances are that are patent before this Commission, there is passing through the whole of the matter circumstances that require the deepest consideration, and are calculated to create the gravest doubt as to what is the real history of this transaction. Let me, however, proceed with his statement. It is obvious, supposing he had any object in getting arsenic, why he did not get it from the Fouzdaree; because if he had been mixed up with the use of it at any time afterwards, the name of his master upon it would have at once traced the possession of it to himself. Under these circumstances if the Gaekwar had been desirous to use poison, the last thing on earth that he would have done would have been to put his name upon the order. On the other hand, the last thing Damodhur Punt would do when he found his master's name upon the order, would be to obtain the arsenic, because it would have been the means of tracing it to himself. Upon that, he, according to his own account, represents to the Gaekwar that he cannot get the arsenic from the Fouzdaree. That will be in your recollection. Why not? Would not the obvious answer of the Gaekwar be, "Why, all poison is sent out of the Fouzdaree upon my order, and upon my order alone. I have the entire control of the poisons; I have the entire control of arsenic. What do you mean by saying that you cannot get the arsenic? You have got my order for it; go and get it." And yet he (the Gaekwar) allows the order, with his own endorsement, to remain in the records, so as to convict him of attempting to procure arsenic in the event of any charge being made against him, and yields to the reason given him by Damodhur Punt that he cannot get it without a single observation, although he knew perfectly well he could get it, and tells him to go and get it elsewhere under the circumstances to which I have now referred and to which I call your attention. Upon his statement that he could not get the arsenic at the Fouzdaree, he is directed to go to Nooroodin Borah, and get



it there. Now, here, we have another curious interlude or episode in this very remarkable case, and here we have again an exemplar of police management and police arrangement. We have a good view of the liberty of the subject—whether they are respectable tradesmen or not—when the police choose to interfere with it. He gives a long account of going to Nooroodin Borah. I can quite understand why he has fixed upon Nooroodin Borah to tell a parcel of fables. He expected Nooroodin would endorse them. Nooroodin Borah, as will be remembered by Colonel Meade, was one of the complainants against the Gaekwar upon the Commission. He complained of having been fined five thousand rupees unjustly, and he also complained of a relative of his having been flogged. He was, and is, and might be well esteemed to be a bitter enemy of the Gaekwar. One can very well understand why it is that Damodhur Punt should have selected him as being the person to whom he applied for arsenic. It occurred to him, as it has occurred probably to men of little minds generally, that this man would naturally be only too glad to obtain vengeance. This is a man who is no friend of ours, but he seems, at the same time, to be an honest man. And how has he been treated because he refused to come up to what the police demanded of him as confirmation of Damodhur Punt's statement; he is kept in custody, and has been kept in custody, for months. According to Akbar Ali, I believe, he has been remitted to prison, because they could not get anything whatever out of him, and Akbar Ali, with a smile the very reverse of benevolent, intimated, in passing, that there was something or other in reserve for him that he would not at all like. One is not therefore surprised that he has not made his appearance to confirm Damodhur Punt upon the subject. The police have done all they could to make him—they have threatened him, they have tortured him—but they cannot make him. Bitter enemy as he is to the Gaekwar, he is the one spot in this case in which an adherence to truth has induced a man to suffer torture and degradation rather than be made an instrument of a false charge against an innocent man. So much for the arsenic. Oddly enough, it does not appear by the depositions that he was ever taken before Mr. Souter, and that illustrates what I have already said that nobody was taken before Mr. Souter until a proper course of police manipulation had rendered him subservient to their purposes. He was never taken before Mr. Souter; he remained in prison. Akbar Ali said that he had been remitted back to jail with the threat that some proceedings or other will be taken against him. What they may be Heaven only knows! He is powerless to prevent them. There is no magistrate, no human being to whom a man, persecuted as this man has been, can appeal for remedy and for safety. So, my Lord, as far as I remember, there is no evidence whatever that Damodhur Punt ever obtained any arsenic at all—no evidence, I mean, beyond his own assertion. His own assertion is that he obtained it from Nooroodin. I think the observations that I have made upon that subject will satisfy you that this is utterly false. If he obtained it, he obtained it from some other source, and for some other purpose. The whole of his story is a fabrication that he might have obtained it upon his master's order. He did not do so, and the evidence in relation to Nooroodin is conclusive that he did not get it from there. He makes no suggestion as to having got arsenic from any other quarter. This is the arsenic that permeates ultimately until it is supposed to reach the cup of sherbet of Colonel Phayre. I am not aware that there is any other suggestion as to arsenic being procured. I believe there was some suggestion of arsenic from the camp Borah—the man who has not been called; and if there was any arsenic obtained from him, they have his books in their possession, so that if that arsenic had been brought from him they have abundant means in their own hands to prove it. Now, I think the next portion of his evidence (having dealt with the arsenic) it will be desirable to deal with, will be the evidence as to what he calls the "physician's stuff." I have before me the evidence given before Mr. Souter; and part of it I will take the liberty to read. It will save me considerable amount of description, for I think the description he gives himself is as good and



my house at 9 o'clock, and I gave him the bottle to take to Rowjee to poison the Sahib. 'This I understood perfectly, though I did not tell Salim to give it to Rowjee.' So that we have now the contents of the bottle which were to be applied to the unfortunate Colonel Phayre. We know how it was made, the elements of which it was compounded. I shall have to follow that bottle through a variety of stages. It is almost a comical episode in this otherwise extremely serious case. But we trace it now from its source and it will not escape your attention, and I beg that you will keep in your recollection the account that Damodhur Punt gives of it, because you will find that when we are considering Rowjee's evidence that that account is extremely material. He says the first bottle brought was about this length (pointing to the forefinger). He did not use any other term, but put up his finger, represented that the first bottle was about a finger's length, and that the bottle that he put it into was about half a finger's length. You will find that in the evidence—I believe I am quoting it quite correctly—because it is extremely important. It will be one of the means by which the falsehood of Rowjee's story will be developed. He tells us further that it was in an attar bottle. Now, I did not ask any particulars as to attar bottles. But I believe it is perfectly well-known what they are. They are bottles in which there is a very thick coating of glass and capable of holding a very small quantity of attar. Probably the space to hold the liquid is almost infinitesimal, and when you consider an otto-of-rose bottle of about the size of half your finger, you will agree with me that it is not calculated to hold any amount of liquid. But, according to all accounts, that is the famous bottle which ultimately met with such adventures, and came under such very learned cognizance. This is the bottle given to Rowjee, and the bottle that I shall presently follow through its very eventful history. I have dealt with the arsenic, and I have dealt with the physician's stuff, as I shall perhaps in the future call it whenever I have the necessity to allude to it. I have now come to the supposed obtaining of diamond dust. Now, I venture to believe that there was never such nonsense in the world talked as diamond dust being accredited as a poison. I have looked into books of considerable authority, such as Taylor and Beck, and others, and I cannot find the slightest trace, except in a work with which I was not acquainted until I came here, where it has been quoted on the subject. At the same time, for aught I know, there may be a belief that diamond dust is a poison when a book of any kind, whether an authority or not, asserts that it is. As far as I can understand, if it is spoken of as being an article thoroughly well known, one would imagine that it would be the residuum that comes from diamonds after they were filed or cut. However, they are shown to you as being the result of diamonds themselves being pounded, and it is supposed that diamonds were procured for the purpose of pounding them into diamond dust and using them in the way that is suggested for the poisoning of Colonel Phayre. It is quite odd that of two or three witnesses who have been asked upon the subject,—goldsmiths, Nanajee Vithul and others—every one of them declared that he had never heard of diamond dust in his life—never heard of diamonds being pounded. We all know it is a very valuable article, and would imagine that the notion of its being a poison would have been discovered effectually long ago. However, I will accept the assertion made by my learned friend upon the foundation of the work that he referred to—Dr. Chever's work. I will accept it that there is a superstition of that kind which I will class with the superstitions about the snakes and the flies and the other articles. There may be such a superstition; I cannot tell. But diamond dust never came out of Damodhur's place. Damodhur Punt never obtained any diamond dust. Let us follow what he says upon that subject, and I come now to a portion of the case that I shall have minutely to analyse, and I hope I shall be enabled to convey the ideas that are present on my mind upon the subject:—"I got the diamond dust from Nanajee Vithul. I got three *massas* of powder, and nine *massas* of diamonds. I know this from what Nanajee Vithul told me." That is an important portion of his evidence, as you will observe when I call attention to the evidence given by Nanajee Vithul. Then he says, "I gave the diamonds to Yeshwantrao, who said they were to be made into powder and given to Colonel Phayre. I said, 'This is not good—this is bad,' a sufficiently mild



mode of talking on the part of one who intended to poison. You will see that in the statement he first of all made, he said there were three *massas* of powder. It appears from what Yeshwuntrao observed—if his statement is true—that there was no powder given to him, because he simply makes the observation that the parcel or packet given to him was to be made into a powder. Now, I must pause at this period of the case. I have made observations upon the improbability of the Gaekwar taking such means as those imputed to him for the purpose of obtaining arsenic. I now would venture to ask the Commission what they think of the story in relation to his obtaining diamond dust. Assuming diamond dust to be pounded diamonds, why on earth should there be such an elaborate scheme to obtain possession of these diamonds? Why should other people have been taken into confidence? Why should a man have to falsify his books when the Gaekwar has nothing whatever else to do but to take the loose diamonds, and the diamonds that he was using in ornamentation and have them pounded? At that very moment he had small diamonds which were being used for the purpose of ornamenting the hilt and scabbard of a sword. Throughout his whole reign he had been in the habit of procuring diamonds. His diamond department was full of them; he had nothing whatever to do but take them. Then why all this machinery? Why all this quantity of falsehood? Why all this manipulation of documents? What earthly purpose could be gained by it? If he had wanted diamond dust, he had only to take his own diamonds and have them pounded. That is all he had to do. In the same way, it appears to be manifestly absurd that there should have been so much elaboration for securing arsenic. All these transactions took place in the absence of the Gaekwar, and they are alone dependent upon the statement of Damodhur Punt. No collateral evidence of any kind is taken. Diamond merchants are not found to have brought the diamonds to the Gaekwar, nor said to have brought them, nor is it said that they had any conversation with the Gaekwar at all about them. In point of fact, except through the medium of these most tainted and infamous witnesses, there is not a scintilla of evidence that the Gaekwar had anything whatever to do with or any knowledge whatever of these transactions. My Lord, I pass over those portions of Damodhur Punt's evidence in which he imputes certain conversations to the Gaekwar relative to the attempt on Colonel Phayre. They come within the argument that I have already humbly suggested to the Commission—they are utterly and absolutely uncorroborated—there is not a scintilla whatever of confirmation—and it is quite clear that in the matter of conversations, inasmuch as they are said to have taken place when Damodhur Punt and the Gaekwar were entirely alone, it is perfectly impossible for the Gaekwar to give anything but a general denial to them. He has no means, by evidence or otherwise, of doing anything else than contradicting what he denounces as an infamous falsehood; and I cannot do more therefore than refer to the character of Damodhur Punt, and the impossibility of any human being, I don't care who he is, extricating himself from such a web of charges as those made by Damodhur Punt against the Gaekwar, made by a man admitting himself to be an accessory to the murder or attempt to murder, endeavouring to shift off his own shoulders the responsibility on to somebody else, and obtain immunity for himself by casting the crime upon another. But while there is no conversation whatever, or any corroboration of any kind, all the statements made by the Gaekwar to Damodhur Punt, there is negative evidence that in my humble judgment goes very strongly to refute it. Every paper in the Gaekwar's possession was seized by the officers, and there is no genuine document whatever found by which the Gaekwar can be personally implicated in any of the transactions. I used the term personally implicated for the purpose of distinguishing between the statement Damodhur Punt has put forward as the confirmation of his own statement, (and supposing it to be true it amounts to nothing more,) in contradistinction to what I say ought to exist for the purpose of confirming a villain of this description, namely, such confirmation as brings the accused by word or by deed, by act or by letter into connection with the transactions. But it is not pretended, except in one most remarkable document to which I shall presently call your attention, that the Gaekwar was cognizant in any way whatever with any of the transactions that Damodhur Punt was





answers itself, and answers itself in a way that is most important for the men whose nonsense I have been endeavouring to demonstrate; it shows that evidence of a grossly flagrant kind has been manufactured, and it will cause this Commission to look with the greatest care and apprehension upon every portion of this case with which these manufacturers have had to do. I make no further observations upon that. I shall not have to recur to it again. As I have said before, I think it is negative testimony of a very important character indeed, and in the light of negative testimony I place it before this tribunal. I have already referred to the fact that he was perfectly well aware of the statements that Nursoo and Rowjee had made—he admits that before he was arrested he had heard of the alleged poisoning by arsenic and by diamond dust, so that his mind was fully prepared to furbish up some story of poisoning in which the principal elements should be arsenic and diamond dust. As to the bottle employed in the transaction, he gives some kind of excuse by saying that he had poisoned a boil of Colonel Phayre. But now you have before you the evidence of Damodhur Punt that is given upon the subject of the arsenic and upon the subject of the diamond dust, and you have also my comments upon the subject, which it is a great gratification to me to find are not at all likely to be forgotten, and will, I know, be hereafter considered with perfect impartiality and with sound and excellent judgment. I have endeavoured to make my propositions as clear as possible. I make them, knowing that they will be answered as far as they can be by my learned friend the Advocate-General. I know that the ability of a man holding one of the highest positions in the country will be brought to bear upon the subject; but at the same time I know that, recognising the duties of his high position, he will only do that which is in the interest of justice. He is not here, and he must feel gratified that he is not, to hunt an unhappy prince off his throne, and no man is more likely than my learned friend to act in the interests of that justice which will ultimately be administered here, and to which I have no hesitation in saying the whole of the population of India is looking forward to the result with great interest, while it will be watched by the greatest minds and the greatest intellects of Europe. I go now to another part of my subject. I shall have to go into some detail, and perhaps I shall not secure the entire sympathy of the Commission at first in what I am about to say.—I am alluding to the evidence of Hemchund Futtichund. (Refers to page 137 of short-hand writers' notes.) Your Lordship will not have forgotten the appearance of that unhappy person in the witness-box. I never in my life witnessed, stamped upon the face and appearance of an individual, such an abject expression of terror as there was upon his. He had made his statement to the police and to Mr. Souter, which I shall presently read to you. He came forward here to say that that statement was false, that he had made it under intimidation, that he had gone through the process usually administered to witnesses, that he had been left in the custody of the police until he had been sufficiently handled to serve their purpose, that moreover he had introduced fictitious items at the bidding of the police, that he had done so under the threats of the police, and that they had carried out these ends by giving him just a gentle hint, as he was going in to Mr. Souter,—"Now, if you don't verify what has been done before, back you go to prison." That is his account, and under the influence of those threats he made a false statement to Mr. Souter. The Crown produces him for the purpose of saying that diamonds were brought from him through Nanajee Vithul, that Rs. 3,000 were paid him on account, that that sum came from a saving account, and had been falsely entered by Damodhur Punt as having been paid away to the Brahmins,—that is to say, that the entry upon which the Brahmin was called as a witness was an entry fabricated for the purpose of accounting for the sum of money paid to Hemchund for these diamonds, and that Hemchund's books contained fictitious entries to the effect that Rs. 3,000 were received from Khemchund Khusalchund, when in point of fact they were in payment of diamonds. Hemchund was called here to prove two entries at the end of his book, debiting the Gackwar with two sums of money for diamonds. For all these purposes he was called here by the prosecution. I think it is very desirable in this case, as so much depends upon it, to read what this witness said to Mr. Souter: "Some few days after the

last Dussera festival Nanajee Vithul, in charge of the Gaekwar's jewel room, directed me and other jewellers to bring some diamond chips, which we did the same day and handed them to Nanajee, who retained them. The following day our diamonds were all returned, and we were told that the price did not suit. Two days after Nanajee Vithul directed me to bring my diamonds back again; they were weighed, the price settled, and purchase concluded. Four or five days later I was again sent for by Nanajee Vithul and directed to bring other diamond chips, which I took to the Palace accordingly. Nanajee Vithul was not present in the jewel-room. The diamonds were therefore handed to Venayekrow, Nanajee's brother-in-law, who weighed and priced them, and then took them along with me to Damodhur Punt, who remarked that the price was high, but kept them, saying that he would purchase them if required. On this occasion the diamonds were in two packets, both of which were kept; but about four days after one packet was returned to me." It is well that I should call attention now to what Hemchund said when he was examined. Up to this point his evidence when examined here and his statement agree, but they commence to disagree at this point, where he says that only one packet was returned to him. The Commission will find it desirable to recollect this fact when I call attention to the evidence of another witness. He asserts now that both packets were returned to him, and the question for your consideration is whether that is true or not: "A few days after it became known that an attempt had been made to poison the Resident, Colonel Phayre, Nanajee Vithul asked me whether I had entered the purchase of the diamond chips in my books, and if so, that I was to remove the entries in some way or other, as he was afraid that the diamonds in question had been made use of to poison Colonel Phayre. On hearing this I became afraid and at once caused the pages of my account books on which the sales of the diamonds were entered to be removed and fresh pages substituted. The three books now before me (lettered A, B, and C) are those that were thus tampered with. The price that I was to receive for the diamond chips was Rupees 6,270 of Baroda currency, and on account of this sum I was paid Rupees 3,000 by Nanajee Vithul, which has been credited at pages 10 and 24 of the day-book as having been received from one Khemchund Khoosal. A portion of the above sum of Rupees 3,000 was counted out and paid to me by Nanchund, Shroff of the Doomala villages." I want very much to impress upon the Commission the point here which is really in dispute. Hemchund says now in evidence that both packets of diamonds were sent back, and that there was no transactions between him and Nanajee Vithul. He also says in his statement before Mr. Souter that the pages containing the alleged transactions with the Gaekwar were torn out; but he goes on to show that which you will ultimately find to be entirely inconsistent with their being so torn out—that an account of these transactions was to be found at pages 10 and 24 of the day-book disguised as transactions with Khemchund Khoosalchund. My learned friend says that Khemchund Khoosalchund was an entirely imaginary character, in so far as these accounts were concerned; that Hemchund had had no such transactions with this Khemchund Khoosalchund, and really never knew of any transactions whatever existing with Khemchund to which he had been a party; and my learned friend pledged himself to call Khemchund Khoosalchund to prove that no transactions whatever had taken place between him and Hemchund.

The Advocate-General explained that the name should be Sewchund Khoosalchund—not Khemchund.

Serjeant Ballantine was glad that it was the printer's mistake with the name this time, and proceeded—But there is no doubt about the real name, and no doubt whatever about the transaction. Now comes what I think sufficiently exhibits the manipulation of the police, the substantial truth of Hemchund's story, and the undoubted falsification of the books by the police themselves. I think you will agree with me that it is about as iniquitous and at the same time as transparent a proceeding when exhibited by the light of information subsequently obtained as has pretty well ever been endeavoured to be foisted upon a court of justice. When Hemchund is called here, he says, "Refer to pages 10 and 24—there they are—they



are not torn out—they are not pretended to be falsified.” These are the items which in his examination before Mr. Souter he vouches as proving the payments in relation to the diamond dust, and at the very time he was vouching this before Mr. Souter Gujanund Vithul had in his pocket three bills of exchange, which he must have deliberately suppressed, of which he never made the slightest mention, and which he never produced to the light until I challenged the production of them here. In these bills the history of Hemchund’s transactions is clearly shown, and the impossibility that they could have related to diamonds proved beyond the possibility of a doubt. Now, Sirs, I shall rely upon your assistance in this case as men much more versed in such business matters as this than I am, and shall content myself with just giving a summary of my views upon the subject with a view to directing your attention to the details which are extremely important. It appears that Nanajee Vithul had transactions with this Hemchund, and I cannot help having a kind of notion of the nature of the transactions when it appears, according to Hemchund’s testimony, that some ornament was purchased from the person whose name I have already mentioned—a jeweller at Poona—and it appears that that article of jewellery was intended in some way or another to belong to Nanajee Vithul, and had been paid for, and paid for by these three bills. You heard his evidence upon the subject, and I think he must have made out to your entire satisfaction that these three bills did apply to the payment for that ornament. Hemchund gave you the amount of the bills, the amount of interest, and so on, and made out an original sum of Rupees 10,000. How that sum was made up he explained with minuteness and detail; he brought the account up to 9,300 odd Rupees, and said the balance was in connection with other transactions upon his books, where they might be seen. My learned friend, evidently astonished at these disclosures regarding the bills of exchange, and believing that the whole of Hemchund’s story was an utter fabrication—as well he might from the information he had received—if he were aware of it he possibly had not his mind particularly directed to the bills—he endeavoured to prove out of the mouth of Nanajee Vithul that Hemchund had been guilty of perjury, fabrication, and falsehood. My learned friend cross-examined him at great length upon this point, and upon his dealings with Nursoo and the Poona goldsmith. It now turns out by negative testimony that every word of Hemchund’s story about these transactions is strictly true, and that in point of fact the transactions did take place. Nanajee Vithul was never examined about them, and the Poona goldsmith was never called to confirm or the contrary the statement made about his dealings with Hemchund. As far therefore as I can see, and remembering the written documents before the Court, these two entries, declared to before Mr. Souter to represent an untrue transaction for the purpose of covering the sale of the diamonds, turn out to represent a perfectly true transaction. The documents before the Commission, the absence of any contradiction of them and of witnesses who were upon my learned friend’s brief and might have been called—all prove conclusively, I think, that what that man Hemchund said regarding this in the progress of this case was perfectly true: “When I declared that these were fabricated entries, I did so in order to get out of the hands of the police. I give you my books, my bills of exchange—I vouch the names of all my people engaged in these transactions.” That is practically what he said here. No contradiction whatever has been given to that. Although Nanajee Vithul is called in in the matters, the entries are now proved conclusively by Hemchund to have been a pure business transaction, although he had been dragooned and frightened by the police into telling a falsehood when examined before Mr. Souter. I must say it really is a terrible state of things, take it in whatever point of view—something that must produce very grave feelings in the minds of all of us—the abject terror that these people can create upon the minds of people who appear to be well-to-do and intelligent, and who in a civilised State would be protected by their character and position, but here may be dragged from their homes, dragged to a prison, bullied by the police, threatened with punishment, kept in confinement, promised delivery if they make a statement consistent with what the police tell them to make; and then we have this fearful thing—that a deliberate false statement is made in the presence of Gujanund Vithul—made by his procuration—in rela-



tion to two items, while at that very moment Gujanund himself had in his pocket the means of proving, and probably had satisfied himself, that these items were entirely correct. My Lord, I use no further expression in condemnation of such a state of things. I confess it was with great apprehension that the proposition first came into my mind. It was with doubt I allowed it to remain there for a moment. I doubted my own judgment; I hesitated about my own discretion; and it was not until I had thoroughly mastered the documents themselves and the surrounding evidence, that I ventured to put it before men who can appreciate my argument, and to put forward upon it the broad assertion, that if you are satisfied my view upon this matter is a correct one, the whole case from the beginning to the end is foul and rotten—that this mass of forgery and falsehood must fall to the ground, and be crushed under the foot of every thoughtful and feeling man. Hemchund's evidence is not, however, confined entirely to that, nor are the falsifications of the book limited to that. [Here Mr. Ballantine received from the Secretary Exhibit A 2.] As my learned friend reminds me—and I am obliged to him for the information—these hoondies are not only referred to in this particular book, but are referred to throughout the other book admitted to be genuine. Therefore they are shown by a number of books to be a regular mercantile transaction, and bring out the state of things I have endeavoured to develop. It is very difficult to quite understand how this story is intended to be made out, because it seems rather like blowing hot and cold first of all to impute to Hemchund the tearing out of the items which involve him in this matter, and the fact of vouching the very items themselves which appear to be still in the books;—it is very difficult, I say, to see, even on the prosecution's own showing, how they are to reconcile these two things. But there can be no doubt about this. He is supposed to have torn out items for fear of implicating the Gaekwar, and yet they say that the item I have now before me is a genuine entry appearing upon the books at the time they were received. [Page 140 of the short-hand writer's notes referred to.]

Serjeant Ballantine pointed to an item and requested the Interpreter to read it.

Mr. Nowrozjee Furdonjee—The item is as follows: “Debited to the account of Shrimunt Mulhar Rao, Gaekwar, 14th of Aso-vud. Given to Damodhur Punt.” (To the President)—This line is not quite correctly written, but I would translate it thus: “Narranjee himself gives to Damodhur Punt.” One letter is wanting in Narranjee, so that it is Narrajee. Then follows the items—“Rs. 2,770—bilandi diamonds.”

Serjeant Ballantine—That is sufficient for my purpose. You perceive from that entry that so far from the transaction being concealed, it is patent. It is not in a curious place certainly, because it comes in upon the 7th or 8th November, when it might be very convenient in regard to the diamond dust that was supposed to be administered to Colonel Phayre. It, however, follows in a remarkable way the evidence of Damodhur Punt, because according to the words used it is “delivered to Damodhur Punt by the hands of Nanajee.” Such an entry as that would not, I should think, be found in many tradesmen's books, but here it concurs precisely with the evidence given by Damodhur Punt. If the item is a manufactured one, we can pretty well account for the terms of the manufacture. You find it consistent with the traces being destroyed—with the destruction of entries. Here you not only find the item, but moreover in the very place a policeman would wish to find it who was conducting this particular case—upon the 7th and 8th, although probably it could not have been used at such a time of being supplied. Hemchund has declared that that entry was made in duress and by compulsion. I ask you to take the entry itself, and you have simply Gujanund against Hemchund. You have a man—I suppose a respectable tradesman—at all events no imputations have been suggested against his character. You have Gujanund, and know the nature of his transactions. I take the liberty of asking you to believe Hemchund rather than Gujanund. I ask you to do so, not only upon the characters of the men, but also upon the entry itself. I want to know what any reasonable man will say about that entry. Is it a genuine one? Or is it one made

up for the purpose, as stated by Hemchund? Why, it passes everything! It being supposed that this transaction was correct, and one in which Damodhur Punt did not want to come before the public view, care has actually been taken to stick his name in. Moreover, it is clear that the whole thing is in direct contradiction of the statement made before Mr. Souter, that all entries had been destroyed. Does it not create pregnant suspicion that Hemchund has told the truth? I think that that suspicion will be largely increased when I call your attention to another witness, Nanajee Vithul—the next witness to whose evidence I will now call your attention. Now Nanajee Vithul is introduced as a go-between between Damodhur Punt and Hemchund in the purchase of these diamonds, and he, during his examination, confirms what was originally stated, that one of these packets was purchased and one sent back; and he alleges—and I beg the Commission not to lose sight of this fact—that these items of Hemchund's upon which I have offered so many lengthened comments (the items accounted for by the boondies) do in point of fact represent the sale of that one packet of diamonds. Nanajee Vithul knows all about these bills of exchange. He knows all about the transaction with the goldsmith at Poona. The transaction was one in which the ornament alleged to be purchased was an ornament for his brother-in-law. And beyond all question Nanajee Vithul was intended to be called to corroborate the evidence that had originally been given by Hemchund, and to contradict the evidence which he gave in open Court here. There is no doubt whatever that Nanajee Vithul could have contradicted that evidence most conclusively had it been untrue. Here is a tradesman who keeps books. Here is a transaction in which Nanajee Vithul is said to be implicated, the bills of exchange being alleged to be bills to which he was a party. But Nanajee Vithul, although called by my learned friend, was allowed to stand down without being asked a single word upon the subject. I do not know that it is possible to place the case more strongly or to have more forcible and convincing proof of the truth of Hemchund's statement. Nanajee, however, sticks to it—and I think you will believe it to be a deliberate falsehood—that a packet of these diamonds was in point of fact kept and charged for, and I am not without warrant for saying that it is a deliberate falsehood, because the very next witness called—Atmaram bin Rughoonath, a servant or clerk under Nanajee Vithul—said in the course of his evidence, "Nanjee said to me, I am going to take the *yad* away, as the diamonds are not to be purchased." That was in relation to the second packet of diamonds; and he distinctly states that the *yad* was to be destroyed because the diamonds had been sent back. This was not a matter of surprise to my learned friend, for I find the witness saying in his evidence before Mr. Souter, "It was about this time that a report was current throughout the city that an attempt had been made to poison the Resident. Nanajee Vithul told me, when receiving the memorandum, that I was to make no entry of the purchase of the diamond chips, as he had returned them to Hemchund." That is what Hemchund himself says; and under these circumstances—considering the bills of exchange, the absence of any contradiction on the part of Nanajee Vithul, and other matters—I say it is perfectly clear that the diamonds were returned, that no sales took place, that there has been no erasure or obliteration whatever in Hemchund's books, that these pages which are vouched as being fraudulent and not applicable to what they are stated to be applicable, turn out to be applicable exactly to what Hemchund has stated in his evidence; and moreover that the two last items about the diamonds on the 6th and 7th are falsified entries, but that Hemchund was compelled by compulsion and duress to make them. I have not abstained from referring to any document upon this subject, or from any test that could be supplied; and I do say I think I have made out, as against the allegation of Gujanund, that Hemchund has told the true story, and is to be taken as a witness of truth. I am quite aware that Hemchund exhibited himself in no very favorable light in the witness-box when he said he did not know what Hindoostanee was. Of course that was an absurdity. At the same time it is clear, even from Gujanund's account, that he speaks Hindoostanee very imperfectly, and that his evidence was given partly in Hindoostanee and partly in Guzerathi, so that saying that he did not understand Hindoostanee was



reasonable enough. Of course, when he said he didn't know what it was, that was an absurdity which nothing can justify except confusion and a kind of terror he seemed to be in. He seemed to be apprehensive every moment of feeling the imaginary claw of an imaginary policeman upon his shoulder, and therefore afraid to utter a single word. I feel that in this matter I have a duty to do towards those persons who make statements upon which I feel I can place great reliance; and when one considers who Hemchund was—the circumstances under which he had been treated—I must ask the Court to extend their consideration towards him. An error he may have committed in the way he gave his evidence, but I shall presently have to call attention to the evidence of Colonel Phayre; and as I take it for granted that Colonel Phayre did not want to misrepresent statements, I hope that when you see that an educated man, in the confusion of his position, making errors which he has afterwards to correct, you will no more impute the errors committed by a poor man, under the influence of terror, to an intentional deviation from truth, than you would the errors committed by Colonel Phayre. I have very little more to say upon this branch of the case, except to allude to this fact—that Nanajee Vithul is said to have given Damodhur Punt two parcels, one containing diamond dust and the other diamond chips; while Nanajee himself says that he does not know what diamond dust is, and never gave him diamond chips at all, but that he only supplied the diamonds. Moreover, he proved the fact that with regard to small diamonds and chips, there was abundance belonging to, and subject to the management of, the Maharaja, which he could have got at any moment, and that in point of fact there was a quantity at his disposal. You have therefore, in reality, by different witnesses, every single portion of the remainder of this substantial case disposed of. No arsenic, no diamond dust, doubtful whether any diamonds whatever were sold, no proof from any source whatever that they were, the arsenic supposed to have been got from Nooroodin Borah not confirmed, the books of the person who is supposed to have sold the arsenic not produced; and the very mint out of which the coinage is supposed to spring, and upon which the whole case depends from the beginning to the end, crumbles to dust, and leaves nothing whatever remaining but Damodhur Punt's bare assertion unsupported by a single credible witness. With regard to Damodhur Punt, he may be lying from the beginning to the end, or he may for all I know be only a poisoner in intention. I shall not attempt to clear that man. From what I saw of him in the witness-box, he has a skulking, scowling, lowering countenance, and I could believe him guilty of any villainy. From the way in which he answered questions here, I could imagine him capable of any amount of cunning. Doubted by Colonel Phayre, likely to have an investigation, prevented from ever coming into Colonel Phayre's residence, and being himself, as I am sure you will believe, a robber and embezzler of his master's money, a fraudulent servant who was likely to have his books investigated at any moment—I can very well believe that he was likely to be the person who initiated these proceedings; and if he did so, and employed Salim and Yeshwuntrao as his agents, I implore you in the name of everything just and fair to exculpate from such charges, made upon such weak foundation, the unhappy Prince who is now relying upon the honor of those now sitting here to acquit him of a crime of which he has declared himself to be absolutely and entirely guiltless.

I am told that Nanajee Vithul vouched that a person named Nanchund Tullackchund was present when a sum of money was paid for these diamonds. I merely beg to mention that that witness has not been called to corroborate these statements. He was examined before Mr. Souter.

The President—Have we got any evidence in our proceedings that he was examined by Mr. Souter?

Serjeant Ballantine—I believe, my Lord, his evidence has been put in.

The Advocate-General—I have not the slightest objection to admit that Nanchund made a statement before Mr. Souter.

Serjeant Ballantine—This is rather important, as Hemchund is attacked by this witness in his deposition.

The President said that if Mr. Serjeant Ballantine had not the note referring to the matter at hand, he (the President) could take a note of it afterwards.

Serjeant Ballantine:—I have, my Lord, dealt with Damodhur Punt, considering him to have been the origin of the whole matter, although as a matter of fact he was last called here. There are other two witnesses—Nursoo and Rowjee—whose evidence is of course of considerable importance. With regard to Rowjee, I do not propose at this moment to go through the details of his evidence, because I wish to follow one or two episodes of this case which I think are illustrative of the whole, and I think had better be followed to their source. I have already alluded to the story about the bottle. We have got a bottle about the size of Rowjee's finger—an attar-of-rose bottle—which holds so little. It has not been pretended that there has been any change whatever in the bottle, but yet in Rowjee's hands it increased considerably in size. I propose very shortly to follow the history of this bottle. The Commission may remember that in the course of my observations, without pretending to put forward any direct proposition of any kind whatever, I expressed a doubt that has permeated through my mind as to whether the servants of Colonel Phayre had in point of fact any intention to poison. I have dealt with Damodhur Punt and delivered him over to your mercies. Deal with him as you please, or consider him the villain he pretends to be when he did in point of fact intend to murder Colonel Phayre; but I cannot bring my mind quite to the realization of the idea that Colonel Phayre's servants were concerned in any such deliberate design. I do not say that they were not, but I cannot bring my mind to think that they were. It is extremely important to follow the history of this bottle and Rowjee's statements upon it. Well, this attar bottle gets into his hands. The period when it does so is extremely doubtful. He himself puts it at about the 9th November, but I am told that he received possession of it at a much earlier period than I supposed. At all events he gets it earlier than October. As I have said before, it becomes extremely enlarged after it gets into his possession, and then the question is as to the uses he has to put it to. He understood that it was to be put into Colonel Phayre's bath, that it was given to him for that purpose, and that there was powder in it. According to Damodhur Punt we have heard what the stuff was compounded of. According to him also, we have the size of the bottle. We then have a description of what Rowjee did with it. He puts it between his drawers, or some other peculiar place, and it produces a boil upon his stomach. It occurs to him then that if he puts it into the bath or uses it against Colonel Phayre, it might injure the Sahib. The bottle was intended to poison him, or destroy him in some way or other; but Rowjee is seized with a fit which it is extremely difficult to understand. At all events, directly it produces a boil upon his own stomach, he is determined that he will not use it, and accordingly throws the contents away. I believe I am correctly stating the extraordinary evidence Rowjee has given. He, however, keeps the bottle, which is subsequently, according to his account, mixed up with arsenic, or whatever the materials may be, to poison Colonel Phayre upon the 9th November. He is told to mix these things in a bottle, shake them up, and put them in a glass from which Colonel Phayre was in the habit of drinking sherbet. The first observation that occurs is, how could a quantity of arsenic or any other poison be shaken up in a bottle of half-a-finger's length? It is not pretended that there is any other bottle than this, which has been traced from the evidence of Damodhur Punt. Of course, probably the whole story of the bottle is a fabrication, and that Damodhur and Rowjee contradict each other upon the size of the bottle, because one did not know what the other had said



about it. But I think the whole thing is an absolute piece of absurdity. A mixture of arsenic, poison, and water could not be shaken in it. If you consider that the story about the bottle has broken down, another link in the story is done away with. I will ask my learned friend what he means to say upon this bottle episode. He cannot urge that there were two bottles. If so, what became of the attar bottle? Does he mean to say that Rowjee procured another? If so, what becomes of Rowjee's statement that he obtained that identical bottle from Damodhur Punt? I would also ask this Commission what view they take of Rowjee's evidence about not using this bottle, which, it is said, was handed over to him for the purpose of injuring Colonel Phayre in some way or another. Do you accept his explanation that he was afraid he would hurt the Sahib? Is it not pertinent to the observations I made on Saturday that it is quite possible that Damodhur Punt intended to commit murder, but Colonel Phayre's servants did not? I shall be very glad if the Commission come to this conclusion, because, although these people are perjurers and scoundrels, they are not of the deep die they have described themselves to be. If that is the case, I may as well call your attention to the time when it is said Rowjee received this bottle. He says that he received it about the time that Colonel Phayre had this boil—that is to say, some very considerable time before he received the first supply of arsenic. He vouches that Nursoo was present at the time he received the bottle, and I call your attention to this, as it contains one of the important contradictions of the case. Nursoo corroborates him as to the receipt of the bottle, but fixes the time as at the very last interview—that is, three or four days before the poisoning took place. It ought not to be lost sight of either that, in his deposition before Mr. Souter, Rowjee never mentioned the bottle at all. The bottle is only mentioned after Damodhur Punt has made his statement upon the subject.

The President mentioned that, according to his recollection, there was a discrepancy between Rowjee and Nursoo as to the time the bottle was given.

The Advocate-General said that Rowjee had mentioned the small bottle in his deposition, for he said, "I used to shake it up in a small bottle and then pour it."

Serjeant Ballantine—But he never says a word about a bottle being given to him full of poison, or (in the way that is now suggested) a bottle coming from Damodhur Punt at all. He says he has got a bottle, but never speaks of another bottle of poison. Rowjee himself affirms the fact that the bottle he saw used was the bottle he obtained from the Maharaja under the circumstances I have described. I wish to impress upon the Commission that in the first place the bottle described by Damodhur Punt is an impossible bottle to have been used in the way described; in the next place, Rowjee never mentioned he received a bottle containing poison when he was before Mr. Souter; again, the bottle he used for the alleged poison he describes in a perfectly different way and of a different class, while he does not pretend to say that the bottles were two different kinds. Perhaps really that bottle contained some of the magic elements described by Damodhur Punt, because it appears to me utterly incredible, notwithstanding the great scientific opinion we have heard expressed upon the subject, that a bottle sealed up in the way it was could produce a boil upon a man, supposing some of the contents exuded from it. If a person manipulated his stomach with arsenic he might have caused a boil, but that the mere accidental exuding of a small quantity of arsenic from a bottle of that description should cause a boil is beyond my comprehension. My learned friend had evidently a lingering belief in the story, and called up Dr. Gray for the purpose of supporting his idea. Dr. Gray, during the process of examining Rowjee's boil, looked very grave, and came back to the witness-box with his scientific opinion. It was put to him whether, in his judgment, such appearances he saw might have been produced by what Rowjee had described. Fortunately none of us had an opportunity of judging what

these appearances were. Dr. Gray gravely told us that a little of this liquid exuding from the bottle might have produced the boil. After that, who on earth can say that it might not? This reminds me a good deal of how a very eminent man in our profession, whom your Lordship doubtless remembers, and who, I have no hesitation in saying, was the greatest advocate I have ever seen in my life and the best lawyer, was deluded by a scientific opinion into a suggestion that a person who had eaten an apple might have been poisoned, because there was an apple pip in it! He was called "Apple Pip" ever afterwards, and, in the same way, I think Dr. Gray's name will always be associated with a boil upon the stomach of this Hindoo. The way science was shocked by such a piece of absurdity was rather surprising. I was taken in by Dr. Gray because there was a solemnity about his appearance that led me to hope I would be able to say that there was at least one witness in this case thoroughly respectable; but I thought of Apple Pip, and there was an end of the belief, and an end of the bottle. It is something too absurd. By the way, the contents of this bottle were never put to Dr. Gray, or probably he might have found out that there was something in them deleterious and calculated to produce boils upon the stomach. If this were an ordinary case, one would be inclined to pass it over with a mere smile; but to think that the man who is the principal perpetrator here should be guilty of such a piece of folly and be the man upon whose evidence a Prince has been practically deposed from his throne, makes that which I believe would otherwise be a laughing-stock a matter of deep gravity and one worthy of the gravest contemplation. I cannot help thinking that before such a man was allowed to have such an effect, his evidence ought to have been analysed by big and honest men. I pass away from the bottle; I wish it farewell. It is an absurdity at once ridiculous and painful as being part of a procedure like this. I now come to another part in which Rowjee is also an actor. I mean the powders Damodhur Punt is supposed to have sent to Salim or to Yeshwuntrao. They are subsequently supposed to have been delivered in the presence of the Gaekwar through a variety of formalities, and at last they come into the hands of Rowjee. I think I had better call your attention to the account Rowjee gives of these powders when he is examined for the first time before Mr. Souter:—"Salim and Yeshwuntrao immediately began to persuade us by saying that if we would only carry out the Maharaja's wishes we should not be required to serve any longer, as he would make a handsome life provision for us and our families; that we should have 'assamies' bestowed upon us, and should in addition receive a lakh of rupees each as soon as the work was done—meaning as soon as the Resident's death took place. We consented to do the job, and the Maharaja then said that the article to be administered would be given to us by Yeshwuntrao and Salim. A few days after this the Jemadar gave me two powders, and told me that equal parts of each should be administered for two or three days, and in such quantity as to consume the whole in that time. This had also been carefully explained to me by Yeshwuntrao and Salim in the presence of the Maharaja. I did not commence to administer the powders for two or three days, as no favorable opportunity presented itself for so doing. It was decided at our consultation with the Maharaja that the poison should be administered in 'sherbet,' which Colonel Phayre was in the habit of taking every morning on return from his walk. Accordingly I put the powders into the 'sherbet' two or three times whenever I found no person in the room or about to see me." In another part he goes on to say that the packet of powder which the Jemadar had given him he made into small doses, as directed. Now, the statement that he has made here is not that he used the papers as directed, not that he made them into three packets, not that he administered them in that way, and not that one of the three packets was found in his belt; but what he says is, that he found the two powders of different colours, and "my own notion was that the white powder was the most dangerous, and therefore I only put a small portion of the white powder into all three packets which I made up, and the remainder, consisting of all white powder, I put into my belt." Now, which of these stories is true? They are

in direct opposition. As far as I understand the evidence, the powders were mixed up at the time he got them up and were not two powders, one of white and the other of gray. That is the story told by Damodhur Punt, and that is how he represents it to Mr. Souter. I am wrong, it seems, in supposing that the powders were mixed up already, and I am much obliged to my friend for correcting me. But Rowjee distinctly says to Mr. Souter that he mixes them up as directed, and his statement before this Commission was quite different. How are these stories reconcilable? Then we come to the question—why should he not have followed his directions? What did he know about the difference of the powders? Then again they were meant to poison Colonel Phayre, and why should he have kept back what he supposed to be the most deleterious? The whole thing is unintelligible in connection with the subsequent story of the belt. If his story before Mr. Souter was true, the parcel found in his belt would have contained two powders and not merely arsenic. I venture to think that, taking these stories together, you have a congeries of improbabilities out of which it is impossible to see daylight. There is no doubt, however, that that arsenic in the belt was extremely useful for other purposes. Mr. Souter was not present at the finding of the damaged papers belonging to Damodhur Punt, and at the discovery of the arsenic he was not present. In fact, he never seems to be present at the finding. There was a universal cry after Rowjee to destroy the poison and leave no trace whatever, but curiously enough his mind seems to have got into a haze about the arsenic, and it entirely escaped his recollection. But Akbar Ali's intelligence overcomes many difficulties, and perhaps Providence assisted him on this occasion. Akbar says to Mr. Souter that he would not wonder if some powder were left in the belt, and Mr. Souter says, "You'd better look to the belt," and he has such confidence in Akbar that he permits him to depart to fetch the belt. It occurs to me to ask, however, why didn't Mr. Souter accompany Akbar? Akbar had made a most valuable suggestion. That belt ought to be put in a menagerie—I mean a museum—and that Akbar Ali should be put in the museum. That belt is a wonderful belt. It will go down to posterity. When Akbar feels the parcel in the belt, as if his Providence had told him there was arsenic in it, he immediately sends for Mr. Souter, and Mr. Souter says, "God bless me, why this is arsenic." I cannot help thinking that here was a matter in which Mr. Souter deliberately left a man whom he knew to be utterly unscrupulous to manage the belt, and relied upon something coming out of it, and sure enough something did come out of it. The discovery of this arsenic can only be considered providential—if it can be supposed for a moment that Providence had anything whatever to do with Akbar Ali. I have shown that as far as Damodhur Punt is concerned he got no arsenic and no diamond dust; I have shown that Rowjee's account of the belt is absurd even to comicality, and I have shown that with regard to the bottle he never mentioned it until the bottle had been mentioned by Damodhur Punt; that with regard to the powders he says he used them in one way, and then swears he used them in a totally different way, and then produces a paper of pure arsenic which is found in the belt under improbable circumstances. All this is a story which rational beings would be compelled to look on without doubt, to use no stronger expression; but when the story is told by such a man as Akbar Ali, it carries falsehood upon it, and I charge, before this Commission and before the world, that in that belt was placed by Akbar Ali the powder which was ultimately found, and directly that was done he called Mr. Souter as a comparatively respectable person to vouch to the fact of its being found. I shall now conclude my observations to-day by calling attention to the intrinsic evidence of Rowjee's falsehood. Undoubtedly Pedro is a respectable witness; upon his character no stain attaches; but he is a Portuguese by birth, and I am told that it is extremely unlikely that any Hindoo would make an accomplice of a Portuguese. Pedro gave his evidence where he could not be tampered with—before a gentleman named Edginton, who, I am told,



bears as high a character as any man in India. Pedro says he received money upon a particular day, but with regard to all the interviews imputed to him by Rowjee, Pedro pledges his solemn oath that Rowjee's statement is entirely and absolutely false. The Commission can determine, without any observations on my part, whether they can find Pedro guilty of accepting poison with the view of poisoning a master with whom he had been a servant twenty-five years without any earthly motive, because, so far as I can see, no motive whatever is suggested for the treachery of Pedro. I think I can point to other intrinsic evidence of the falsehood of Rowjee. The conversations which Pedro is said by Rowjee to have had with the Maharaja are singularly alike, both in spirit and in word, to conversations which Rowjee reports to have had with the Maharaja himself. The inference is obvious. What other conclusion can you come to than that Rowjee's story is a base and weak fabrication? My friend here calls my attention to an extremely material fact. Pedro's visit is made to be three or four days after his return from Goa, which was on the 3rd November, so that the visit would be about the 6th or 7th—the very period, as I shall subsequently show, that has been fixed as being the period of Rowjee's visit with Nursoo.

*Eighteenth day, Tuesday, March 16.*

Mr. Serjeant Ballantine—My Lord, I think that it will be convenient that I should refer now to a matter that is not without its significance in this case, and probably more or less weight will be applied to it by the Members of the Commission: I allude to the examination of the two principal witnesses, Rowjee and Nursoo, before Colonel Phayre, when the supposed attempt at poisoning was first under investigation. I don't know whether it is necessary that I should occupy any great portion of the time of the Commission in commenting upon that evidence. It is almost sufficient to refer to it; it exemplifies their characters; perhaps it does not make them more black than they were made before by their statements made in connection with other matters, and their own evidence in this case has made them. But at the same time it is a matter not to be passed by without observation. We find a number of the servants at the Residency, persons one would assume comparatively respectable people from the offices they filled, directly after the suspicion that the poisoning has been attempted on Colonel Phayre, knowing that the matter might inculpate some of themselves, quietly setting to work together to consider who it is they ought to charge with the offence, and by a general combination of every one of the persons to whom I refer charging a man who they knew, if their evidence is at all true, was perfectly innocent. They seem to have felt no sense of shame. They were frightened at the enquiry that was going on, so they every one combined, according to their own account. They talk the matter over, and Rowjee and Nursoo knew if there is a scintilla of truth in any portion of their story, that they were the persons to whom the act is really attributable. They and their fellow-servants endeavour, as far as they can, to supplement the charge by details which might render it likely that a fellow-servant would commit the offence. Where you find people coming forward first of all, admitting that they have attempted to commit the murder, when you find that they are prepared to charge everybody else, and that they are now charging the Maharaja, it occurs to me that the whole case is of a kind that certainly does not very much commend itself to any Court in which there is a disposition to come to a conclusion upon anything like credible testimony, and although those are matters thoroughly in the mind of the Members of the Commission, it might nevertheless have seemed neglectful on my part if I had not called attention to them; but I do not desire to dwell upon them at any length, as exhibiting the infamy of these people. I shall do no more than say that I feel the force of it, leaving the Members of the



Commission to apply their minds to the subject to which I have called their attention in anything but strong terms. Having made that remark, as I was entitled to do, I now go to the remainder of Rowjee's evidence, a great portion of which I have disposed of. As to the bottle and the belt, I shall offer the few observations remaining for me to make on that testimony. I think, however, that I might refer, and ought to do so, to the circumstances under which he made his statement, and that again I shall refer to very shortly, for I have already made reference to the conduct of the police in general terms. It is only necessary for me now to call the attention of the Commission to the fact that the plans which they adopted with everybody else they adopted towards Rowjee. He is taken into custody on the 22nd, and then it is said upon the same evening he confessed that he had administered poison to Colonel Phayre. He is promised, it appears, pardon if he will confess all. However, that is only after an interview with Akbar Ali. He is subsequently taken before Sir Lewis Pelly and Mr. Souter, after he has been manipulated by the police, Akbar Ali, and all the others engaged in the business of Mr. Souter, to which I wish to call your attention. It seems to have been the course adopted throughout the whole of this enquiry that Akbar Ali and Gujanund and Abdool Ali are the persons who upon all occasions manipulate the witnesses and the persons charged previously to their examination being taken by Mr. Souter. I know that it is always unpleasant to make observations that are either unfair or unjust, but upon serious reflection that I have given upon the matter, I cannot hold Mr. Souter to be irresponsible in these matters. He must have perfectly known the character of Gujanund; he must have known perfectly well, when he was handing over these persons to them, how unscrupulous they are: and I cannot help thinking—and I have expressed an opinion to that effect, and submitted it to the Court—that Mr. Souter ought himself, in the first instance, to have taken down their evidence before they were threatened and tortured as they appear to have been on every single occasion when the examinations had been taken. I refer now to some two or three other matters in Rowjee's testimony. Rowjee's examination is taken on the 23rd, another examination is taken on the 24th, and another examination on the 25th. He is then taken before Sir Lewis Pelly, where the promise of pardon to him is confirmed. There is a remark that I may take the liberty of making, but I think it does seem excessively strange, that while Damodhur Punt is supposed to be the originator of this infamous plot, and Rowjee, who is supposed to be the person who consummated it—if a pardon is promised to them—that Nursoo, who at all events performed a very subordinate part in the whole matter, and so a very inferior actor in the whole affair, should be the only person to whom the hopes of a pardon are not only not held out, but who alone of all others is told that he never will be pardoned. It is an extraordinary thing to find that the perpetrator, the originator of the crime, should be pardoned, and that a mere subordinate agent in carrying it out is the only person to whom a pardon is refused. I should have thought that Nursoo would have been the only person to whom a pardon would have been extended. I cannot tell by what process of reasoning Sir Lewis Pelly should have arrived at the conclusion that Nursoo should be excluded from the grant of an amnesty, and I cannot but think that Nursoo has some reason to complain that he has been entirely left in the shade while persons worse than himself are to go entirely free—to be pardoned. I however cannot help thinking that if this case goes on all right, that we shall find that Nursoo will not be excluded from the position others have found themselves in. To go, however, now to Rowjee's evidence. It appears that his first interview was in August 1873, and it is said that these interviews took place in consequence of certain proposals of Salim. I want rather to dwell upon this. These are matters that apply, because at this time it is not shown that they were engaged in the matter at all connected with the attempt to poison. It is only suggested that Salim is desirous of getting hold of some of the servants for the purpose of getting information as to what

was going on at the Residency, and it seems that some information was given, if we are to believe Rowjee. It is said that he went upon three different times—sometimes during the Commission, and up to the end of the Commission, and that conversations were had upon the subject of his giving information. It seems that this gentleman has taken to himself a wife, and that under these circumstances he thought it only proper that he should have asked for a present. There seems to have been a comparatively small sum of money given to him at that period, or about that period, and, as far as I recollect, it is a sum of money not applicable in any way whatsoever to poisoning, if applicable to anything; but it has been very elaborately followed out. There has been an endeavour to give form to it by calling a jeweller who has produced a quantity of trash which he made on Rowjee's wedding, and to prove that the cash according to Rowjee came from the Maharaja. I shall have to say a few words—though a very few—upon the subject of this endeavouring to get information of what was going on at the Residency. But I stop here to call the attention of the Commission to the fact that, as far as I know, this is the only money that has really been “ear-marked.” There are some small sums of money supposed to have been given to the ayah; but with that exception, these are the only sums of money supposed to have been given, and it becomes a feature of considerable prominence to notice that, after this attempt had been made, there was abundant opportunity both for Rowjee and Nursoo to apply to the Maharaja for money. There do not seem to have been any application of any kind, and no communication whatever made in reference to any money. It is exceedingly strange, to say the least of it, that something was not kept back by these men, and some endeavour to extort money from the Maharaja was not adopted. It seems to me that the absence of all demand is strongly corroborative that the whole of this, as far as the Maharaja is concerned, is the most entire and infamous falsehood. One of these, so far as the Maharaja is concerned, is a most entire and infamous falsehood. I see it is Rupees 500 he is said to have received from Yeshwuntrao. Nursoo, Salim, and Jugga went to the Palace; but although Jugga was the person who had gone there, and was introduced by my learned friend as corroboration of some of the visits when the attempt to poison was suggested, I think that that part of the case must fall to the ground. There is also another person connected, named Khabai, who is introduced by Nursoo, or both Nursoo and Rowjee, as having accompanied them to the Palace. But upon these occasions regarding which my learned friend wanted corroboration Khabai, like Jugga, fixed an earlier period than is consistent with the supposed suggestion of conspiring to poison. He says he went to the Palace last hot season. In point of fact, both of these witnesses entirely fail to give corroborative evidence on the points on which they were wanted to give such evidence, and there is no evidence from any unpolluted source that any visits were made at which the poisons were given. I have to submit that the fair inference, as it stands, of the evidence of Rowjee and Nursoo is, that there may have been visits in the early part of the year during the time the Commission was sitting, and for some time afterwards down to the hot season that Khabai speaks of; that certain sums of money were received by Rowjee and others, but that from that period not one single farthing is ever alleged to have been given to any of these witnesses. Notwithstanding that it is said they were risking their necks in the transactions regarding the alleged attempt at poisoning, these people never appear to have asked for, or as a matter of fact received, one single farthing of money out of the Maharaja's treasury. It is said, and it may be true—and I am not going to dispute it—that Nursoo received Rupees 800 on one occasion. But he says he received it at the time and in consequence of the Maharaja's marriage: and of course this is not in connection with the poisoning, nor does it agree with the period when the poisoning was supposed to be attempted. These are general observations which may have occurred to the Members of this Commission as they have occurred to myself. It is not necessary to dwell upon them further than remarking that a man generally

expects to get rewards according to what he does; and these men are supposed to give information, and one gets Rupees 500 and another Rupees 800 upon an occasion when it was perhaps not unreasonable that they might get presents. But the point to observe is that on the occasion of the attempted poisoning of the Resident they do not get one single farthing. It has been suggested that each of them expected a lakh of rupees; but I do not think any one would take it upon himself to believe that these men expected that they would get such a sum in the event of their success. That would be a sort of promise that a native of this country, unless he were peculiarly simple-minded, would hardly hope to receive in a state of hard cash, and at all events it is a promise of an exceedingly improbable kind. With regard to Nursoo, I don't believe he mentioned from beginning to end of his evidence that he received any consideration to induce him to join in a crime for which he showed so much repentance afterwards. But the pointing out of these improbabilities sinks into comparative insignificance side by side with other improbabilities to which I have drawn the attention of the Commission. The account given by Rowjee of Damodhur Punt is an odd one, considering that they were so deeply implicated in the one concern. He says, "I know a man named Damodhur Punt. I know him by sight. He was at Nowsaree with the Maharaja." That is the account he gives of Damodhur. You will remember that Damodhur Punt says of Rowjee, "One day Rowjee came to my place. He had stolen some documents from the Residency, and he waited there while I copied these documents." I think that these things show that there have been three men at work in getting up this matter—Gujanund Vithul, Akbar Ali, and Abdool Ali—and as each has worked the matter differently according to his own idea, that accounts for the differences in the story. It may be said variances are a proof of truth; but this is an argument which I think has been pushed too far. In small variations it may be true, but when you find the parties themselves differing pretty well upon every material point from beginning to end of the case, I apprehend that this is a contention which my learned friend can hardly submit, and that the Members of the Commission could scarcely understand. It has been said that Pedro went twice to Goa, but that was one of the discrepancies which I did not think it necessary to refer to. I shall not occupy the time of the Court by repeating the arguments I have already addressed to the Commission on the subject of Pedro. Rowjee describes the packet as containing two powders—one white and one rose-colored—and then he says he divided them into three parcels, taking more of the rose than of the white-colored. The fourth part he put into his belt, and the other powders he put into the tumbler upon alternate days. Upon this subject I shall have to refer to Colonel Phayre's evidence, wherein he describes himself as suffering from confusion of the head, and that incapacity of understanding himself which astonished him so much—all which he attributed to these powders, though, unfortunately for that theory, these powders were administered when Colonel Phayre had become perfectly well. These powders were obtained fifteen or twenty days before the 9th, and the period fixed for the symptoms I have referred to was the time when he was suffering from the boil, which I think was fixed as some time in September. It was very curious to see the way in which there is an endeavour—I won't say a dishonest endeavour, but one of those endeavours that a mind not over-strong might make—to adapt himself and his recollections and thoughts to circumstances he subsequently believed to have taken place. When I read over some parts of Colonel Phayre's evidence, you will see it is quite obvious that he means us to infer that he underwent a process of slow poisoning at a time long preceding anything whatever having been done to him. As to the boil, perhaps Colonel Phayre may have attributed his symptoms to the bottle that had been obtained by Rowjee, although there is this difficulty about doing that—he never used the bottle at all. That suffering which he felt when he took off the plaster, and that confusion of brain which he so seldom seemed to suffer from, could not be applicable to the



bottle, more than the powders. It is said that Nursoo had asked about the bottle, and Rowjee replied that he had used it, but we have got the history of the bottle so completely before us that I need not refer to the falsehood connected with that matter. In referring to the 5th November, or about this time, I want to call the attention of your Highnesses to a comparatively small matter, but which if I were addressing a jury in England I might consider to be a very important point. It is said that when about November 5th Rowjee went with Nursoo to the Palace he was violently reproached by the Maharaja with not having done anything at all, and that the Maharaja gave vent to some very coarse abuse. I believe that the particular expression used was given to some one in Court; but I should desire that expression to be submitted to their Highnesses, for, considering their knowledge of Eastern manners and of the manners of a person occupying the position of a Maharaja, I should ask them to say whether that expression was one that was ever likely to come from his lips. I have been told that the expression is one of extreme filthiness, and wish the Court to know what that expression was.

The Advocate-General remarked that the expression had been brought out in the vernacular during the examination of the witnesses.

Serjeant Ballantine—Then, that is all right, for the expression should be in the recollection of their Highnesses. Then Rowjee says that on the next day Nursoo gave me—this is a matter I have already alluded to before the Commission, but I will venture to allude to it again—"On the next day Nursoo gave me some black or dark-colored substance." This is the substance supposed to be put into Colonel Phayre's glass. I think, Sirs, that this is substantially all I need call the attention of the Commission to in relation to Rowjee's evidence, for having dealt with that evidence upon some particular points at some length yesterday, it is not necessary for me to refer further to the evidence. There is, however, I think, this very remarkable fact—I do not know whether it has occurred to the Commission, but I think I am right—that every transaction emanating from Damodhur Punt first of all goes through either Salim or Yeshwuntrao, and that the next person brought upon the scene is invariably Nursoo, to whom, quite unnecessarily it appears to me, the packets from time to time are supposed to be handed. Nursoo need not have been entrusted with the secret at all. However, he is brought in, and then he hands the packet to Rowjee, and the poison is used, or not used, according as Rowjee's evidence is to be taken. The Commission have therefore clearly before them that, according to Damodhur Punt's own admission, he conceals the schemes and then employs as his agents Salim and Yeshwuntrao—probably both of whom were persons implicated in the frauds committed upon his master—and that then through the hands of Salim and Yeshwuntrao the powders are delivered to Nursoo, by whom again they are given to Rowjee, who is supposed to use them. But all through this the Maharaja is never brought into the matter at all, and he has not been connected with the affair but by bare assertions. Now, supposing this were the case, and that Damodhur Punt were under a charge and had no opportunity such as he has now of saving himself by throwing the blame upon the Maharaja, there would have been the most conclusive case that the design emanated from him and was carried out ultimately by Rowjee. I cannot help thinking—and I put it before you in a clearer way than I have put it hitherto, because I am sure this Commission will not rest with any bare proposition—that the case as propounded against the Maharaja has not been made out. This, it appears to me, is one of the most extraordinary elements in this difficult case, but I can understand that Damodhur Punt, excluded from the Residency, threatened with an enquiry, a man who had been embezzling his master's property, as undoubtedly you will agree he has been if you accept the explanation I gave to you and do not accept the explanation he offered out of all reason to you, that Damodhur Punt, with Yeshwuntrao and Salim, who were his accomplices in these matters, and who had therefore equally good reasons for getting rid of the Resident,



really intended to murder the Resident himself. Considering what Damodhur Punt has admitted, I think that this is neither improbable nor impossible; but I have shown, I think conclusively, that it would have been in no respect whatever for the Maharaja's benefit to murder Colonel Phayre; and I have given you sufficient grounds for supposing that Damodhur Punt may have had a motive for doing so and wanted to carry out his designs. But when we come to the servants of the Residency, it is extremely difficult to see what motive on earth they had to destroy their master. They would lose a man against whom they had no complaint. They would lose a man—Nursoo especially, who had served so long in the Residency—from whom they obtained their position and everything else. There are other men more cunning and cleverer—men who have completely taken in Colonel Phayre and governed his mind and ruled his intelligence; men like Bhow Poonikur, who knew all that was going on, and who were perfectly well aware, for instance, of the khureeta that was in existence, and who must have known that Colonel Phayre was in a considerable peril of being dismissed: but when we come to examine motives, I think we will find that it was much more reasonable for the servants at the Residency to keep him there than seek to take away his life. Now, where every particle of a story is monstrous and improbable, I do not think it is a forced conclusion to arrive at, that it may have easily occurred to Bhow Poonikur that if there was an appearance of an attempt upon the Resident's life, that would save him from being removed. The lesser thing would merge in the greater, and the confusion that would be caused by the rumour of the attempt might distract attention from the intention to remove him. I would not venture to put forward such a proposition if it were not for the evidence given by Rowjee. If Rowjee is to be at all believed, and the story of the bottle has any truth in it, directly he gets what is to be formidable upon the life of the Resident, he throws it away; and again, directly he gets the powders, he takes out all that is dangerous and leaves that which is innocent. At all events, if Rowjee used those powders, it is perfectly clear that no evil effects from their use arose to the Resident. Then comes the dark-brown powder which we must follow, as it is one of the oddest features of this case. Dark but black, Rowjee calls it; dark, Colonel Phayre calls it; while Dr. Seward took away the powder and says it was a light-colored one. Says Dr. Seward, "I cannot account for the powder being dark, because the powder I took away was a light one." Therefore you have to account for this dark sediment or the powder which was sent to be analysed. You have no explanation of it. Colonel Phayre cannot explain it, nor can Dr. Seward. It stands entirely inexplicable. Then there is another circumstance which shows this was not a reality. If arsenic was really used, arsenic is perfectly tasteless. Now Colonel Phayre says that there was a strong coppery taste in what he drank, while there is no suggestion, either by the evidence or by the analyst, of anything whatever having got into that sherbet with a strong metallic taste. There is no accounting for this fact: this also stands perfectly unexplained. Then, my learned friend may say, how do you account for arsenic getting into the possession of Dr. Gray or Dr. Seward? I do not know whether I should answer that, but if it is intended that I should, I take the liberty of saying that there would not be the slightest difficulty of doing so in the world. It is perhaps not to be supposed that either Dr. Seward or Colonel Phayre, who had had their attention directed so much to this matter of poisoning, might have made a change; but what is there from the beginning to the end of this case that is not either probable or improbable? Nothing. The whole is a mass of inconsistencies. Here is at all events something of a solution. You will remember that associated with this matter there was a statement which must have meant something to Colonel Phayre, and did really mean something at the time, that he had received private and confidential communication that the ingredients in his glass were arsenic, copper and diamond dust. I shall refer you presently to his evidence on that point. I think it is only right to do so on behalf of His Highness the Maharaja. This private and confidential communication turned out at last

to be from Bhow Poonikur, although Colonel Phayre did not confess it without some backwardness. Bulwunt Rao or some such person is, according to Bhow Poonikur, the man who first gave this information about the ingredients of the sherbet. My learned friend did not think it necessary to bring forward Bulwunt Rao. But there the information stands, that copper had been used, and that Colonel Phayre affirms there was a copper taste in his mouth. How is that explainable, nothing being used but diamond dust and arsenic? If my learned friend means to show that any other ingredient has been used, then he must knock down the whole of the superstructure that has been so deliberately and carefully raised in order to show that the poison used was diamond dust and arsenic alone. I have already told you that neither of these ingredients possesses any taste whatever, although they possess certain sensations; and I venture to ask again how on earth is this story reconcilable? How do you get rid of that dark residuum? What became of it? Where did it go to? Dr. Gray didn't get it, and Dr. Seward didn't get it. They both get a light gray powder. The only possible way out of the difficulty is that Rowjee mistook the dark for the light, and that Colonel Phayre mistook the dark for the light. Now, in propounding this theory of the possible guilt of Damodhur Punt, or the possible intention on the part of the servants at the Residency to play a trick upon their employer, but with no view whatever of poisoning him, it must not be understood that I propound it as one of the matters upon which I stand to prove the innocence of His Highness; I put it forward as one of those matters which upon theory may be fairly put forward, and I assert that it is just as possible as many of the other theories which have been propounded here, and is, in point of fact, supported by circumstances that are not nearly so inconsistent in themselves, as those other theories I alluded to. I suggest that an actual intention to poison did exist in the minds of certain people, but that the Residency servants took care that copper should be used and put something into the glass that tasted so strongly that Colonel Phayre's attention is drawn to the matter and the whole thing becomes known in the bazaar. I simply ask the Commission whether or not these are not considerations that you ought to receive with the other circumstances in this case. My Lord, I do not think it is necessary that I should occupy your attention with many observations upon the subject of Nursoo. It is worthy of note, however, that he appears to have been arrested on the 3rd December, and was confronted with Rowjee in the presence of Gujanund and Akbar Ali and Abdool Ali. Mr. Souter was not then present. The same system was pursued by these three men that I have already called attention to. Gujanund Vithul himself admits (see page 164 short-hand writers' notes) that he had questioned Nursoo. This is the account he gives himself upon the subject. The next day after Nursoo was apprehended he was confronted with Rowjee: "I was sitting with Nursoo upon the maidan or plain opposite the Residency, or the open space or plain opposite the Resident's bungalow, and I was questioned about the particulars of this case." Then there is a question put by Mr. Melvill, and the witness says, "Yes, I was sitting with him; and the Khan Sahib was also present, *i.e.*, Akbar Ali and Abdool Ali were also present. I had given instructions to Rowjee (and I call the attention of the Commission to this point). I said, 'You should not say further than this; you have said everything connected with this case.'" The President asks, "Who was this said to?"—and the witness replies "to Rowjee, and that was what Rowjee said when he came there and he said, 'I have said up to this' (pointing to his neck). He did not say anything more than that. I did not say to Rowjee anything of the particulars what Nursoo had stated in order that Nursoo might not hear the particulars in the manner I have mentioned." I cannot make any minute observations upon this matter again. If it does not strike the Commission as being a fabulous account of what really took place, no words of mine would be able to convince you. Gujanund particularly desires that Rowjee should not allow anything to escape that can in any way inform the mind of Nursoo, and all that Rowjee

does is the intimation, quite intelligible, that he has said up to his neck. It is possible that Gujanund may have been actuated with a good desire upon this occasion, but such a thing would be inconsistent with his nature and of his previous history. Moreover, if he did want to be fair, his object was woefully defeated by what took place afterwards. It next appears that Nursoo made a statement and was taken before Sir Lewis Pelly and Mr. Souter, and then is told that no pardon will be given to him—which I think was rather hard upon Nursoo, as he was the least criminal among the persons concerned. It seems that he made an oral confession. I asked Mr. Souter why he did not take it down. He replied (see page 177), "I did not take it down as I had a great deal of work to do." I beg the attention of the Commission to that. It occurs to me, and I think it will occur to you, that if Nursoo did make an oral confession at that time, and if that oral confession was interpreted and was not in any keeping, Mr. Souter's duty to the public was to take it down there and then—it was a confession of murder and of guilt. Why was it not taken down then? "I had no time to do it," says Mr. Souter; "I had other matters to do connected with this enquiry." But what more important than taking down the account of an accomplice to the murder? To this Mr. Souter has no reply. Then we have Sir Lewis Pelly, and he entirely differs from Mr. Souter's account of what took place. It was not because Mr. Souter had not time to take it down, but because, as I understand the matter, as Mr. Souter was about to take it down, Sir Lewis Pelly said, "Oh no! let him have time to think it over," and accordingly he was admitted to the care of the police, and it is not until the following day that he comes forward and makes a statement, which is subsequently reduced into writing. Now I must say that the whole of that transaction is eminently suggestive of an opportunity being given to a man whose statement was not in accord, or might have contained elements somewhat contradictory, with the statements of others to correct that testimony. Another point to which I would draw your attention is that the statement was not taken down until the 26th, although he was put into custody on the 23rd. This fact is vouched for by Sir Lewis Pelly. Then we come to the garden scene or the well incident, which I have already referred to, and in which the question is whether it was the effects of conscience or the effects of a dinner that induced Nursoo to do something which he could not be prevailed upon to say was done purposely. I wonder who it was that told this precious story about the well. Whoever it was, they conveyed what was a palpable and deliberate falsehood, although surrounding it with circumstances that might have been very easily proved. They say that he was in the custody of the police when he broke away from his guard and was standing at the edge of a well and threw himself in. That is a fact stated with so much detail that it should have been proved up to the very hilt. It may be said that when Nursoo comes here he may have told that which was untrue, and the suggestion be that he was tampered with—although your Lordship will remember that the word tampering was defined the other day by one of the witnesses as being the handing of a man over to the soldiers and only allowing him to be seen by the police. But where are those people from whom he broke away? Cannot any of them be found? Are none of those careless guards from whom the prisoner suddenly broke away to be discovered? It is astonishing that the gentleman who instructs my learned friend has put none of those men into the witness-box. I think that the explanation that would have been more satisfactory to the tribunal would have been the evidence of some of these witnesses to show upon what possible pretence the assertion has been put forward that he wanted to jump into the well. I do not propose to refer to his cross-examination. It will be in the recollection of the bench that the fate that overwhelmed him, predestination, and so on, led him to take part in committing this attempted murder, for which he was to get nothing. But having dealt with all the main parts of the case, I do not propose to offer any further observations regarding this man. The case of my learned friend is this, that, without a motive, without an inducement, without anger, without





to sleep out at night and thought I had caught malarious fever, and thought that perhaps this was the cause. I had puzzled myself about the circumstances and tried to account for it in the way I have mentioned, when I also began to wonder whether the pummelo sherbet was made with proper pummelos. It would be about the end of September or the beginning of October that I began to wonder at this. I remember Govindrao Rouj. On the 6th November I went to an adoption ceremony at his house. I think I arrived at his house about 5 o'clock in the afternoon. On the morning of that day I did not take the whole of the sherbet; I took a sip or two of it and threw the rest away." Now it is quite clear that Colonel Phayre implies by that that there was some difficulty in the sherbet which induced him to throw the rest away. In point of fact, it was opined by my learned friend that he was poisoned, or attempted to be poisoned, on the 6th or 7th. Now it turns out that nothing was done to him on these two days, so that really Colonel Phayre's imagination must have been the father of these symptoms—*ex concessio* there is not one single *scintilla* of evidence to show that any poison was employed on these days. In his letter to Dr. Seward Colonel Phayre says: "My dear Seward, —With reference to the circumstances which I mentioned to you this morning, together with the symptoms which I described to you and the contents of the tumbler which you took home with you, I should feel much obliged if you would kindly give me a professional opinion as to the nature of the contents of that tumbler, whether poisonous or not. Although I only took two or three sips of the pummelo juice which the tumbler contained, I felt within about half-an-hour, as I described to you, a most unusual sickness of the stomach, accompanied by dizziness in the head and of sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth, with slight salivation, such as I have never experienced till within the last few days, and which I attributed partly to a slight attack of fever, which had however quite gone off, and partly to an idea that the pummelos from which the juice daily placed on my table had been extracted were not fresh ones. I now, however, attribute all of these symptoms, especially that of this morning, to entirely different causes. In fact, I now believe that for the last few days small doses of poison have been introduced into the juice, and that had I drunk the whole tumbler off to-day, I should have been very ill indeed. The confused state of my head has often surprised me of late, because for the last six weeks I have abstained *in toto* from wine and beer, &c., except once or twice when friends dined at the Residency, and I have found myself all the better for it. My general health is, as you know, most excellent, and therefore the symptoms which I have described to you are, I feel sure, the result of unnatural causes. I never dreamt of poison, otherwise I should not have thrown away so much of the contents of the tumbler which I gave you this morning. It was only after doing so and when I was replacing the tumbler on the table, and saw the sediment at the bottom, that I for the first time suspected foul play." This only shows what imagination may do with a man. Upon these two days it is not pretended by any one that any poison was used in the pummelo juice. Then comes the morning in which this poisoning is supposed to have taken place. After having drunk the pummelo juice he says: "I wrote for about twenty minutes or half-an-hour, and then felt a sudden squeamishness, as if I was about to be sick. The thought occurred to me all at once it must be the sherbet which has always disagreed with me, and I got up, went to the wash-hand table, took the tumbler in my hand, and tried to throw away the contents in order that I might not be tempted to drink it." This shows a very funny reason for throwing it away and one that can scarcely be satisfactory to this Commission. As I said before, it would have caused me to call my servant and say, "What on earth do you mean by getting me this pummelo juice?"—and it would have been better still if this liquid substance had been kept and analysed, instead of the greater part of it being thrown away. Dr. Seward seems to have acted also with a great deal of haste, as he threw away all the liquid handed to him by Colonel Phayre and only retained

the powder. Then Colonel Phayre goes on to say: "The window through which I pitched the sherbet opens on a chunam verandah, which is rather wide, and then comes the grass of the compound." It was on this verandah that this remarkable discovery of diamond dust and arsenic takes place. It seems to me<sup>a</sup> that the discovery of this was sufficiently odd to excite attention. If there<sup>if</sup> was no trick being played, or if there had been a predisposition to find arsenic, there would have been plenty of means of finding it upon the verandah, and perhaps this Commission will not pay much attention to anything that was found outside of the glass. Colonel Phayre then goes on to say: "As I was replacing the tumbler, I saw a dark sediment collected at the bottom." He then proceeds to describe the sensations, which he says were similar to those he suffered upon the two previous days. Now the whole story here seems to be odd; first there is the throwing away the liquid, instead of calling his servant, in order that he might not be tempted to drink it; then there is the description of the coppery taste in it, and the darkness of the powder. All these points I have already commented upon, and I must leave you to consider the value of these comments. I have already referred to his letter in which he speaks of the confidential communication; and this shows how completely a man's mind may be perverted by his prejudices. On that very day he writes to the Government of Bombay telling them that he has been providentially preserved from being poisoned. He displayed the same determination to consider himself poisoned. He then goes on to say: "The Maharaja came at about half-past nine, his usual hour. Between the time of my giving the sherbet to Dr. Seward and the Maharaja's arrival, I had received no communication from Dr. Seward. When the Maharaja came, I went out to receive him as usual, and led him into the drawing-room, and he sat down. I asked after His Highness' health, and he said he had not been at all well, that there was a good deal of fever about, and he thought he must have eaten too many of the sweetmeats common at that time (the Dewalee). He also mentioned that he had a headache and a slight pain in his stomach." Now, how unfair that is, and how thoroughly untrue, because in an early part of his evidence he says that the conversation began with his asking upon the subject of His Highness' health, and it was then, and not till then, that His Highness gave a description of his symptoms. This shows you how that man's mind had become so impregnated with an idea that he actually states what is not true until you come to find it out by the facts proved. The Maharaja did not lead the conversation; Colonel Phayre did, and it was he who made the enquiries regarding health; and it was only in reply to this that the Maharaja gave a very natural account of his own feelings and of what really took place about that occasion. There was not the slightest ground for making the allegation that the Maharaja was the first to lead this conversation. In point of fact, my Lord, can you consider this Prince guilty by his own acts? Supposing Colonel Phayre's story was true, there is not the least reason to suppose that the Maharaja knew of the events which took place on the 9th. He was ignorant of what had taken place at the Residency that morning, and that Dr. Seward had got the glass. This was not a gunpowder plot in which the day and the hour had been fully arranged and all the accomplices were waiting to see what became of it. In point of fact, nothing was arranged at all; there was no day mentioned, and nothing whatever had been fixed. Therefore all the insinuations about the peculiarities in the behaviour of Rowjee on that morning fall to the ground, unless it was the case that Rowjee was playing a trick upon Dr. Seward, whose youthful imagination carried away his judgment in the matter. I think there is nothing from beginning to end in this case—and that is a matter I implore your consideration of—there is nothing in the demeanor of the Maharaja which indicates the knowledge or impression of guilt. There is no movement in a muscle of his face; there is not an act done out of the ordinary course of nature. His Highness, in fact, acts as he had always done before, and meets Colonel Phayre as a man and not as a murderer who had made him his intended victim, and the Gaekwar only pays to Colonel Phayre the ordinary

visits which he was in the habit of paying at such times. I do not know how Eastern Princes are constituted, but I should say that at all events they are men like ourselves. They must have some emotions, and they must have some fears, and we look to the conduct of a murderer to exhibit by manner or demeanor something or other to implicate him with his crime. I defy the most ingenious of those who have maligned this unhappy Prince from the time he was arrested to the time he has sat here waiting the decision of this Commission to point out anything in His Highness' conduct which criminate him. I defy those who have called him harsh names and who have communicated to the papers, to their disgrace, terms opprobrious of His Highness, and who have thought fit with a view of influencing the tribunal before whom he is being tried, endeavouring to make that tribunal forget the duty they owe to themselves, by falsely misrepresenting statements and falsely heaping upon His Highness terms which in England would cast upon the editor of that newspaper an obloquy from which he could never escape to the end of his days. I have read the words published in that newspaper about that unhappy man, and my blood has boiled. Living in a country where there is a free press and an honorable press, I know there is not a man, except a man who would be hunted into infamy for it, who would have written one single word against that Prince, much less word upon word, sentence upon sentence, that I find has been written about that unhappy Prince in one of the papers here which, I am told, is one of the most influentially circulated through this country. I say that there has not been one single act exhibited by His Highness the Gaekwar that would lead you to conclude that he is guilty of the crime laid to his charge. Now, my Lord, I am not referring to the early parts of the cross-examination of Colonel Phayre; I do not desire to do so. It was with great difficulty that I could get from him any admission about that document, which he called a private document, and which he said he could not recognise, as no private document had ever come to him. I have never used that document in any way except to show that it was known to the Maharaja, and I may here call attention to the letter that Colonel Phayre writes to Dr. Gray, to the effect that "previous to the receipt of your letter under reference, I had received secret and confidential information that the poison administered to me did consist of a mixture of (1) common arsenic, (2) finely powdered diamond dust, (3) copper." Now, Sir, I pressed Colonel Phayre to mention what justified him in saying that the information he received was private and confidential, and he replied: "I can give no information. Amongst the persons who gave me the information it was one or the other amongst them, but which particular person it was I could not say without enquiry. I can give a list of all the persons who used generally to give me information, and it was one or other among them." Was it Bhow Poonikur?—"I cannot say. It was either Bhow Poonikur or the other man." To the best of your belief, was it Bhow Poonikur?—"To the best of my belief, I cannot say." Who is the other man?—"The other man I referred to is named Bulwuntrao, a moonshee. But there is a list of persons." I won't have a list of persons, sir, I shall just have your evidence. Was it Bhow Poonikur or the other man you mentioned?—"I tell you I cannot say." Was it one or other of them?—"So I believe." Ultimately it turned out that the statement was given by Bhow Poonikur, who was called as a witness here and gave an account of the persons from whom he got that information—men who have not been called here by my learned friend. I will leave Colonel Phayre's evidence at this point with a view of pointing out the nature of the statement of his feelings, especially as to the coppery taste. You will take these in relation with the whole matter in this case and say how far it leads you to be satisfied that any attempt to poison had been made. This, I think, leads me to one more matter to which I should address myself, namely, the tampering with the servants at the Residency. Now, my Lord, as a specific charge, I hardly know how it is intended to be used. I understand perfectly well that if it is supposed that servants were being tampered with to do an



injury to their master, that that might be an offence. But I do not think the charge can exist as an offence here. If the Maharaja chose or endeavoured, however little-minded it might be, to obtain information of what was going on at the Residency, and that, not with a view to injure the Resident, but simply for his own information, I hardly know in what manner that could be dealt with by this Commission as an offence. I cannot help making this observation, that it comes very ungraciously in the charges laid against the Gaekwar if it emanates from Colonel Phayre, because it is quite obvious that Colonel Phayre had a lot of people who were in his employment to all intents and purposes, although they were not paid by him. The person who seemed to be thoroughly in the confidence of the Resident will make money in a variety of ways, and I have no doubt that Bhow Poonikur was more or less a spy used by Colonel Phayre for getting information for him. Could it be doubted that he in his own room dealt with these persons day by day, and from them was consequently in the receipt of information of what was going on at the Palace? Colonel Phayre seems to have thought there was no harm in this, but there is no mistake however that it was done. He had learned—and that is a matter well worthy of consideration—some time before that this khureeta was being prepared, and he had learned all that through Bhow Poonikur, who must have bribed or inveigled the servants at the Palace for the purpose of obtaining that information. That is all, as I understand, that is alleged against the Maharaja. As far as I can see, all that the Maharaja obtained was the most trumpery stuff in the world. As far as one can gather from one of the letters to which I shall presently refer, it is something or another about a dinner party, and I do not remember that anything whatever is gained by the Maharaja. Even the evidence of the ayah as to the information, supposing that evidence is taken to be true, is that Mrs. Phayre is “very well disposed towards him,” and that she will get her to look kindly upon him, with some other matters of that kind. But as far as I can gather, he gains nothing of importance from beginning to end, and nothing that is worth while to lay himself open to the observations made in the present case. Colonel Phayre undoubtedly in respect of this khureeta did get valuable information. He got information of this khureeta a considerable time before it was delivered, and he must have got that through the instrumentality of some of the servants. Now Colonel Phayre in reality speaks of a number of people who were constantly giving him information, and one of these is Bhow Poonikur, whom he describes as being a man whom he constantly received and constantly communicated with, and constantly got information from. Such being the case, it seems to me rather hard that a charge of this kind should be made against the Maharaja, when it is perfectly clear that Colonel Phayre practised at all events quite as much espionage as it can be pretended was ever practised by the Maharaja. I of course do not admit the statements of the ayah upon the subject. They are denied entirely by the Maharaja; he denies having had any communication with the woman at all, and you are to say whether these communications have been of the kind, and the description of them of a character, that would carry at all conviction to your minds. I submit to you that they are in the highest degree improbable. One does not understand what is to be got out of the ayah. What does she know? What are her communications? What influence has she? What can she get? State papers? She was only an ayah at the Residency, and so she seems, as far as I can see, about the last person in the world he would have been likely to use for such a purpose. It was stated by my learned friend that this is not the only purpose for which she was used, and there is no doubt whatever that a strong endeavour was made to apply her communications to entirely different motives and to get her to say that some suggestions had been made to her upon the subject of poisoning the Resident, and there is no doubt also that originally the intention was to bolster up a case against the Maharaja by the ayah’s evidence. My learned friend now is content to put it as being merely one applicable to the obtaining of information, and not in any way whatever as supporting Rowjee and

Nursoo's story; and in fact, as far as I recollect, the ayah is not supposed to have been in communication with or to have seen Nursoo and Rowjee—at all events not to have been in communication with them. I don't deny any of the evidence of the carriage drivers who are supposed to have taken the ayah to the Palace. When I say I do not deny, my learned friend will perfectly understand that what I mean is that I know nothing about it one way or the other. It is a matter perfectly possible, because the ayah may have visited the servants at the Palace, and may have plenty of gossip with them for aught I know, and yet the whole story of having seen the Maharaja may have been utterly untrue. And then one of the dates given by the ayah is a very important one; and in relation to the evidence which she gave to Mr. Souter and to her subsequent statements I think it is extremely important. There is no doubt whatever that pressure was put upon her to make her allege that she had been not a party, but that she had rejected with scorn—rejected with utter disgust—the suggestion that she should assist in the poisoning. Now it is a very odd thing that one of the visits—and this is a thing to be considered throughout the whole case—made by this woman was a visit made at the very time when Nursoo and Rowjee were said to have obtained the last lot of poison; and the suggestion originally made was, while Nursoo and Rowjee were the agents who had undertaken to poison Colonel Phayre, that at that very time, almost upon the identical day, the 5th or 6th of November, this woman also had a suggestion made to her of the same kind—not in any way whatever connected with Nursoo and Rowjee, but an independent poisoning, something apart from them, something that she was to do, and in her own fashion, if she had not been shocked at the proposition and declined to have anything to do with it. That is an observation that I make with reference to that particular meeting. I don't know whether there will be any doubt upon that subject. Shaik Dawood says, "It was before the last Dewalee, about two or four days before." So that he fixes the time to be the 5th, 6th, or 7th November, which is about the very period when the other plot was going on and was in full play, or supposed to have arrived absolutely at the consummation. This woman asserts that she had an interview with the Maharaja, who talks to her on the subject of poisoning, which he, it is alleged, had already arranged to have done by somebody else, and talks, as he is alleged to have talked to this woman, as if she had been Colonel Phayre's prime minister—a person of the greatest power, a person of the greatest dignity and of the greatest importance. This Commission will consider the probabilities of that story, and with the observations that I have already made upon the subject, I don't think that I shall feel it necessary to trouble them further on the subject of these visits. Tampering with servants seems to me to be a matter in which both sides have done exactly the same, so that the one can hardly charge the Gaekwar for doing that of which we had such prominent examples in the case of Colonel Phayre. There is no doubt whatever that there was a time when the establishment of spies as against the enemies of the kingdom was considered absolutely necessary and were a part of the constitution of the State. However, that was done away with in 1830. Before concluding the evidence of the ayah, I must refer to her evidence given before Mr. Souter, and to the circumstances under which that evidence was given, because it shows very prominently how charges of this description may be raked up and upon what miserable gossips they depend, so that the chatterers in the bazaar are listened to, the wretched gossip that takes place here is retailed, and although the Gaekwar, who may not have much experience of the world, might have seen any of these persons, I say it is with great surprise that I learn a man holding the high position of Resident in a kingdom of this description should allow and encourage a parcel of people to be constantly retailing their stories in his ear, especially when one of these is looked upon not only as Colonel Phayre's chief spy, but as a bitter enemy of the Gaekwar. In the first statement that the ayah made before Mr. Souter, though I venture to say it was the second—(reads extracts from the ayah's statements in which she states that the Maharaja and





people should die than that the supporter of lakhs should come by his death." And to this wretched stupid old woman, (who had no power on earth to administer poison, and no chance of doing anything else but chattering everything said to her as soon as she got into the bazaar,) it is supposed that the Maharaja, who must have an amount of decent intellect, is supposed to have spoken to her in this way and made her an accomplice when it would appear he had made other arrangements with other people. I hope that when the Commission comes to consider some of her answers, they will remember that she admitted at last her statement had no foundation, and that never from the beginning to the end was any suggestion whatever made to her except that she should use a charm on the Resident in favour of the Maharaja, and that nothing whatever justified her in supposing that the Maharaja had contemplated poison. There is another passage which it is my duty to call your attention. The ayah was asked, "Did Mr. Souter ask you if you knew anything about the poisoning?" Now just fancy beginning with a woman like that, and suggesting poisoning and what she was wanted to say. Now, look at the answer this woman gives upon the spur of the moment. "Yes, they threatened me and said that if anything of the kind was said I should say it." "I told all I knew." So here you have in the first instance Mr. Souter putting directly in her mind the notion, and then you have Akbar Ali threatening her about the poison. In fact, her story is one mass of absurdities from beginning to end. I have examined those statements, and I have also considered whether it was possible there was any means to answer the case, and I have found that there is not a single instance in which there is not a single witness worthy of any attention as being present at any of the proceedings. My learned friend asked a witness—and unless he had done so I would never have made any allusion to the subject, whether or not there had been any access on the part of my client to Salim and Yeshwuntrao. I presume that the object of that question was to suggest that Salim and Yeshwuntrao were witnesses to be called on the part of the Maharaja, but in the first place the Maharaja in no respect whatever recognises any of these proceedings. He cannot tell, and his advisers are unable to suggest to any certainty whether these men are or are not accomplices with Damodhur Punt, they may be so or they may not be; they are people connected intimately with Damodhur Punt according to Punt's own statement. They are persons who have gained a livelihood like Damodhur Punt by embezzling their employer. But moreover from the time of this enquiry down to the present moment they have been in the hands of, and are now in the hands of the Police. My learned friend has not hesitated to call tainted witnesses here; they have called no other. Why should they not have presented Salim? He is not a greater scoundrel than Damodhur Punt. Why should they have not brought forward Yeshwuntrao? He is not a greater villain than Rowjee. They might have called all these, which would lead me to suppose and there is nothing in the conduct of this case that they might have been called if they could have been found to confirm a single question. But I say unfeignedly I could never have learnt what I have done, as to the Police in the present case, even if these men had been men of a better cast than I believe them to be, and even if these had been anything whatever that the Maharaja was called upon by evidence from respectable sources to give an answer to, I should have felt the utmost unwillingness and the utmost doubt upon the subject regarding the calling of Yeshwuntrao and Salim. They would have come out of a custody from which nothing could be safe, and unless they could have proved some facts of which the Gaekwar was cognizant, I should have felt the deepest hesitation in putting these men into the witness-box. It is not for me to make out a case on behalf of the Gaekwar. I believe now that these men have lent themselves to proceedings utterly unjustifiable if the story of the different witnesses be true, but these proceedings the Gaekwar knows nothing about. No independent nor honest witness has implicated the Gaekwar in any way, and I will not put into the witness-box men who have been in the hands of the Police up to this time,

and who may probably have been implicated in that what may have been an attempt by one set of persons, although not carried out by another. My Lord, whether I am right in that course or not, I need not say my judgment has been left perfectly free and unbiassed, and it is upon my judgment that I act upon this occasion. I decline absolutely to put forward these people. I refer back to the evidence given, and submit to this Court that the evidence is utterly unsatisfactory, and that the charge made against the Gaekwar entirely falls to the ground. My Lord, it is really with a deep sense of gratitude that I thank you for the attention that has been paid to the arguments I have humbly and probably insufficiently pressed before you—arguments that may be fallacious, but which I have earnestly and in the belief they are worthy of consideration pressed upon your attention. My Lord, you have given, I am sure, and will give, the fullest effect to them. I have felt the weight of this case and the deep responsibility cast upon me. No case probably has ever excited more general attention—that will be watched with more jealous care—that will be canvassed by more critical minds. It is, probably, the very first example that I know of, in which a man in the position of the Gaekwar charged with an offence of this character, or indeed with any offence at all, has been put upon his trial. We know well the history of India furnishes many examples of it, how the Viceroy has frequently with a high hand taken upon himself the supposed necessary correction of those who have acted contrary to that which is just, or the view which the Viceroy has taken on himself to think is correct. But on the present occasion His Excellency the Viceroy has felt it right when there is a grave accusation against a great Prince in the kingdom that that accusation should be sifted. He has seen upon paper probably sufficient grounds for an enquiry, and he has instituted that enquiry—the first I say that has ever existed in this country and by which English law and English justice are called upon to assist in an enquiry connected with a charge against an Indian Prince. My Lord, to me, at all events, that is a profound satisfaction, for whilst admitting and feeling deeply my own incompetency—and in that I am not talking from any false feeling of modesty, because I believe there is hardly a Counsel in the land who would not have the same sense upon this matter, and probably justly so, for it requires indeed a great grasp of mind, great power, and one would have been glad if one could have brought to bear upon the subject great eloquence. I have only been able to bring to the subject calm reasoning and such as I wished and calculated would have an effect upon the judgment and minds of the Commission. Again, my Lord, I thank you for the attention you have paid me—I implore you not to consider that what I have said is all that can or might be said upon the part of this unhappy Prince. I implore you to look into the minutes of the evidence. I believe in that minute will be found matters upon which I have not relied, but which have strong bearing to show that the Gaekwar is entirely innocent of this charge. Cast from his throne, exhibited to his people under circumstances of degradation, not one man scarcely daring, while the investigation is going on, to come forward and say a word in his favor—he has solemnly declared his own innocence, and I as his Counsel have referred to the evidence given here, and solemnly ask the tribunal which has to try him by equal judgment and justice of English laws, to say that the veriest pickpocket ever charged with an offence could not have been found guilty upon the evidence by which it is sought to deprive a Sovereign Prince of his throne.

Enclosure No. 32.

*Eighteenth day, Tuesday, March 16.—(Continued.)*

The Advocate-General's Speech :—

*(Extracted from the "Bombay Gazette," Newspaper.)*

The Advocate-General then proceeded to sum up, which he did as follows :—

My Lord Chief Justice, Your Highnesses, and Gentlemen,—It now becomes my duty to offer such observations as have suggested themselves to me upon the evidence which has been recorded in this matter, and upon the able and eloquent speech which we have heard from my learned friend Serjeant Ballantine in defence of His Highness the Gaekwar; and I feel that the task which now devolves upon me would be one almost beyond my strength were not I satisfied that the evidence which I have been able to adduce before this Commission has established every one of the material propositions which I stated to you in opening this case. My Lord, it has been a satisfaction to me to find that my learned friend has recognised, not once only, in the course of his address, the satisfaction with which he and his client viewed the course which has been adopted by the Government of India upon this occasion. My learned friend has recognised in the fullest degree that the Commission which has been appointed to investigate this case is a Commission to which no exception can be taken. My learned friend has said that the decision at which the Commission shall arrive will be one to which, though he may not agree with it, he can offer no valid or substantial objection. Of my learned friend's part in the case it is not for me to speak. My learned friend has brought to this country a reputation which is not merely English, but European. My learned friend has before this Commission exhibited these rare qualities which have raised him to the foremost place in the ranks of the British Bar, and he has here equally sustained the fame which has accompanied and preceded him. It cannot therefore be said that if the Commission should arrive at an adverse decision to His Highness the Gaekwar upon any of these points, it has not been for want of ability or zeal on the part of his advocate. If indeed my learned friend has introduced into this case sympathy for his client, which is not unnatural under the circumstances, and which has found expression continually in the course of his arguments, that sympathy which my learned friend has expressed and felt has not detracted in the slightest degree from the force of his argument. I have, I confess, been somewhat surprised to hear that my learned friend has dwelt so much upon a persecuted Prince—upon the circumstance of His Highness having been placed in what Sir Lewis Pelly very properly called honorable confinement, and upon the fact that the public property of the State, pending the decision of the Government, has been placed under what is popularly called in this part of the country attachment. Indeed, it would have been impossible for any other course to be pursued, and my learned friend must be satisfied that in subjecting His Highness to suspension from power, in so assuming the temporary administration of the State, and in providing for the protection of the State property, the Government of India would have failed in its duty if it had not adopted the course that it has adopted. It should be felt as no hardship by His Highness the Gaekwar that this course has been taken. I am sure that my learned friend will bear in mind that in his conduct of the case he has met with the assistance of the officers of the Government—an assistance which he has himself so handsomely acknowledged. The defence which has been presented to the Commission on behalf of His Highness is not merely contained in the argument of my learned friend, but in the statement put in by His Highness—a carefully prepared and well-weighed statement, which is before the Commission. That statement really amounts to nothing more than this—that it is, in elaborate phraseology, a plea of not guilty. It is a statement not vouched by an oath or solemn affirmation—it is a statement, as we must take it, I presume, made by His Highness upon his honor, and weight must accordingly be attached to a document presented under such circumstances. For my own part, I have no desire to cavil at the course that has been thus adopted. I had no desire to ask the Commission any of those questions which His Highness stated at the close of his statement he was willing to answer. There seems to me to be no necessity for harassing His Highness upon any plea that he has put in, or with any cross-examination whatever. My learned friend, following the general statements in that plea, has dissected, with the ability for which he is so remarkable, the evidence which has been offered in this matter, and



we find that the defence which he puts forward comes really to this—that instead of the circumstances which your tribunal has to investigate being a conspiracy on the part of the Gaekwar and his servants to procure the death by poison of the British Resident at this Court, this is really a conspiracy on the part of the police, who bring false accusations against His Highness. For that defence I was prepared, though I was not prepared to hear it put forward in the way in which my learned friend found himself, on instructions, justified in adopting. The case really, as presented by my learned friend, comes to this—that all the evidence literally as to the graver charges imputed against His Highness has been manufactured, notably by Akbar Ali, Abdul Ali, and Gujanund Vithul, the three detective officers employed under Mr. Souter; and, strange to say, my learned friend has not hesitated to aver that Mr. Souter was a party to the base and vile conspiracy so brought to pass. Now, before I go into the consideration of the case proper, allow me to say a word or two on the general question, that this has been a case made up by the police. It will be in the recollection of the Commission that Sir Lewis Pelly stated that among the matters that he was deputed to enquire into when he came to supersede Colonel Phayre was this very question of the attempt to poison Colonel Phayre. Mr. Souter's services were applied for by Sir Lewis Pelly shortly after his arrival here, and Mr. Souter came to Baroda on the 9th December—just one month after the alleged attempt had taken place—and was then accompanied, or immediately followed, by the three police officers whose names I have mentioned. Of these three men it may be permitted to me to speak here one or two words. Akbar Ali is an officer of forty-four years' service. He joined the service in 1831. He has received in recognition of his services the honorable distinction of Khan Bahadoor—a distinction conferred by the Government of India, and a distinction not conferred lightly or without due consideration. During the whole forty-four years that he has been in the public service, there was not one event upon which my learned friend could cross-examine him. There is not one single instance in his career to which the research or the ingenuity of those who instruct my learned friend could point as attributing to him the slightest disgrace. He comes before the Commission as a man of unspotted character whose services have been recognised by the State, and nothing whatever discreditable to him is on record. And the junior Khan Bahadoor, Abdul Ali—he of course has been for a less period of time in the service of the State than his father; but he has also gained from the Government of India the honorable title of Khan Bahadoor; and when he was put in the witness-box for cross-examination, not a single question was asked of him. If there had been anything in his career upon which he could have been cross-examined, no doubt my learned friend would have questioned him as to the character which my learned friend has attributed to him. No such question was put to him, and we must therefore presume that he, like his father, has a character untarnished, notwithstanding the difficulty and delicacy of the services he has had to perform. And the third man, Gujanund Vithul, he also has been for a long time in the service of the State, and has earned the corresponding distinction given to Hindoos in the British service of Rao Sahib, Khan Bahadoor being a title conferred upon Mussulman officers. And the only point as to which my learned friend could cross-examine him was as to his previous character with regard to the phases of a case which was brought, in the first instance, in the District Court of Ahmedabad, and afterwards tried in the High Court of Bombay, and is what is popularly known as the Koth succession case. In regard to the first branch of it—I mean the first investigation before Mr. Coghlan—Gujanund was not concerned in it further than as a witness, and in the later branch he was not in it at all. My learned friend was instructed to read a passage from the judgment of the High Court, which in no way referred to the police. Those are the three men—old, zealous servants of the State—whom my learned friend has been instructed to describe to this Commission as utterly unscrupulous persons, and as persons engaged in the inception and prosecution of a vile conspiracy. I think the Commission will be of opinion that there is not the slightest foundation for the charge which my learned friend was instructed to make against them, and that in the proceedings in this matter they have done nothing which should cause them to lose the good character which they have so justly earned. My Lord, my learned friend has frequently in the course of his address to the Commission

said that he has been told this and that by various persons whom he has not named. I have no doubt that my learned friend has been told a great deal since he came to this country that he would not have repeated had he been better acquainted with this country and the people of this country, and with the particular individuals who are concerned in this case. There are no doubt here, as everywhere, a large number of people who have a bad opinion of the police, and that opinion I have generally found to be entertained by persons who have at one time or another been in the hands of the police in connection with a charge made against those persons. The criminal classes all over the world have a great objection to the police; and no doubt some of the information which has been conveyed to my learned friend may have been derived from people who have no reason to speak with pleasant recollections of the days when they had to pass through the hands of the police. But when my learned friend, not satisfied with ascribing to the three native officers whom I have mentioned an active part in the conspiracy which he has been instructed to suggest in this case, went on to say that Mr. Souter deliberately left the room at the time that Rowjee's belt was about to be examined, knowing that he left the examination of that belt in the hands of an utterly unscrupulous person, notwithstanding the expectation that something would come of that enquiry—which something did come, as my learned friend said—and that Mr. Souter was called in afterwards as a comparatively respectable witness to testify to something having been found in the belt, I think my learned friend was misled by those who gave him the information to misjudge not only the audience of this court and all who heard him, but to misjudge also the Commission themselves. Mr. Souter is a man well-known throughout this side of India. He has been an officer in the service of the Government for many years, and his services have been recognised by Government by conferring upon him the Star of India. My Lord, he wears, though in a lesser rank, the same decoration that is so worthily worn by three of the members of your Commission; and even if it were not the case that Mr. Souter is personally known to the members of the Commission, surely the fact that he is an English gentleman ought to have preserved him from the imputation which my learned friend was instructed to cast upon him. But Mr. Souter has a reputation as dear to him as mine is to me, and as my learned friend's is to him; and I have no doubt that if my learned friend knew Mr. Souter better, he would find him to be a gentleman of honor and of honor as untarnished as Mr. Serjeant Ballantyne's himself, and it does not recommend the case put forward by the defence to have it suggested here in open court that a gentleman of Mr. Souter's position and character—I will not say a puppet in the hands of Government, but one of their servants now engaged in a vile conspiracy for the purpose of ruining His Highness the Gaekwar. Had Mr. Souter's character been capable of being attacked, there is no doubt that it would have been attacked in the course of his cross-examination, but it was not so attacked, and it was with a feeling of great pain that I heard my learned friend attack it yesterday. The character then of the police officers specially deputed by Government to enquire into this case—for it will be remembered that these three native officers were men whom Mr. Souter well knew—one of them, the Rao Sabib, had served under him many years ago in the mofussil, and the other two are at the head of the detective branch of the police force of Bombay—the character of these men ought to have saved them from the imputation cast upon them. Another consideration also which I think, if fully and fairly weighed, would have saved it is this—what interest could three or four police officers of the Bombay police have in accusing the Gaekwar? My learned friend has not come down here to say that it was a part of the policy of the Government of India to drive His Highness Mulhar Rao from the guddee and to get rid of him from Baroda. If those who instructed could have ventured to suggest that such was the policy of the Government of India, there might have been found in that an explanation of a desire on the part of the Bombay police to carry out the behests of the Supreme Government. But no such suggestion is or can be made, and I doubt





way, and it was in consequence of that statement that the proposed visit to Bombay was deferred. My Lord, another point which I may mention, as it was very much dwelt upon by my learned friend in the opening of his speech, was this: that the material witnesses who were called in this case to prove the guilt of His Highness were accomplices, and my learned friend asked that upon that ground their evidence, if not rejected by you, should be utterly discredited. Of course, every one familiar in the slightest degree with the proceedings of courts of justice in this country, and every man of common sense, must know that there is a grave degree of suspicion always attaching to the evidence of accomplices, but I am not aware that I introduced these material witnesses to the attention of the Commission otherwise than as coming here with the disadvantage that their evidence ought to be regarded with a certain amount of care. I am not aware, at the same time, that there is any law existing in India or England which renders the evidence of an accomplice inadmissible. In India it is customary for judges to tell juries in their summing up, in cases in which the evidence of accomplices has been taken, that it is not safe for them to act upon the evidence of accomplices unless that evidence is corroborated in some circumstance that affects the identity of the persons accused; but at the same time it is by no means necessary for judges to offer that advice. As your Lordship is probably aware, there is a rule stating that it is no misdirection on the part of a judge trying the case to omit to give that caution to juries. By the Evidence Act it is stated that an accomplice shall be a competent witness against the accused person, and a conclusion is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. That is a point in Indian law which is, I am sure, familiar to at least three of the gentlemen sitting on this Commission, but I have deemed it desirable to mention it, because I thought the impression might be conveyed to the public from the address of my learned friend that unless an accomplice is corroborated it is impossible to find an accused person guilty against whom he has given his evidence. I think, however, I shall satisfy this Commission that in this case there is no particular necessity for bearing upon this rule of Indian law, because the corroboration exists in vast quantities upon the very points which English lawyers have held such corroboration ought to be directed. The identity of the Maharaja is a fact beyond all possibility of doubt. Perhaps, also, I may be permitted to advert to another of the points dwelt upon by my learned friend in the early part of his address, and which is a point of much importance, namely, to the conduct of His Highness the Gaekwar after he was informed that his name had been mentioned in connection with this attempt to murder Colonel Phayre. The Commission will remember that after the evidence of Rowjee was taken, and before the statement of Nursoo had been made, His Highness paid one of his ceremonial visits to Sir Lewis Pelly. On that occasion Sir Lewis Pelly requested Mr. Souter to communicate to His Highness the purport of the evidence given by Rowjee, and the Gaekwar, being advised thereto by Sir Lewis Pelly, stated he would willingly give every assistance in his power towards the detection of the criminals. My learned friend has said that from that time forward His Highness did so, and that by his demeanour and his readiness in giving up Salim and Yeshwuntrao he was proved to be an innocent man. But I am not disposed to attach much importance to the surrender of Yeshwuntrao and Salim. I do not see how their surrender could have been refused. Moreover, whether it was an act of the Gaekwar personally to surrender these prisoners, is not apparent. An application for their surrender was made to Mr. Dadabhoy Nowrojee, and the communications on the subject, in which the Gaekwar may have concurred, were through Mr. Dadabhoy Nowrojee. No doubt Mr. Dadabhoy would at once have advised the surrender of the man, and I have no doubt also it would occur to His Highness that the surrender of the two men was a thing which it would be, not only wise not to do, but which could not be helped. If His Highness had disregarded the advice of his Minister, and refused to surrender the prisoners, what would have been the consequence?

He would have placed himself in open hostility with the British Government, and he would either have had to yield or fight. So, my Lord, there cannot be the slightest doubt that there was nothing extraordinary in His Highness' conduct in the matter of sending the men, and I do not see that any powerful argument can be put forward in favor of His Highness because he did not refuse to give up the men. Moreover, as to the rest of the conduct of His Highness from the time he was informed through Sir Lewis Pelly that he was said to be implicated in the attempt to murder Colonel Phayre until the time he was suspended from power by the orders of the Government of India, I fail to see what there was in the demeanour of His Highness from which a conclusion can be drawn either one way or another. No doubt it might have been possible for His Highness to raise the standard of revolt, but that would practically have been an admission of his guilt. I think that the course he adopted was a course that would have suggested itself to any man, namely, to stand by and abide the consequences of his own act. He could not have taken any active measures which might not have amounted to proof positive of his guilt. He therefore remained passive, and if we read his conduct by the light of Damodhur Punt's evidence, we can understand why he did remain passive. Not only did he know beforehand that an attempt to poison Colonel Phayre was to be made, but on the morning of the 9th November before he saw Colonel Phayre he knew that the attempt had been made and failed. He had followed day by day the progress of the enquiry which was instituted by Colonel Phayre, and he was kept informed of the progress of that enquiry. Damodhur Punt has described to us the alternations of fear and hope that filled the breast of His Highness. He has told us how he praised the sagacity of Rowjee, and rejoiced over that witness' liberation; he has told us how again when the Bombay police came to Baroda he enjoyed a moment of elation because Yeshwuntrao and Salim had been permitted to return to the Haveli from the Residency, whither they had been sent; and again how he did not permit Salim and Yeshwuntrao to be sent back in the evening to the Residency without having previously cautioned them to say nothing. That the confidence reposed on these men was not misplaced and was justified is proved by the fact that they have said nothing, notwithstanding that my learned friend on behalf of the defence has given them up as scapegoats. My learned friend says they have said nothing, though in the care of the police, and we may accept that as true, but I say that there is nothing to show, nor can you find any proof, that this is a police case, nor can you find anything to exonerate His Highness from the charges imputed to him. These charges may be conveniently referred to, because they group themselves into two heads—in regard to one of which my learned friend has not made much contention. He has expressed himself unable to understand the meaning of the charges, and he has not set himself to disprove them. The first is, "That the said Mulhar Rao Gaekwar did, by his agents and in person, hold secret communications for improper purposes with some of the servants employed by Colonel Phayre, the Resident at Baroda, or attached to the Residency:" the second, "That the said Mulhar Rao Gaekwar gave bribes to some of those servants, or caused such bribes to be given." The third and fourth charges relate to the attempt to poison, and, as you will see, the other charges relate merely to the bribing of servants at the Residency by the Gaekwar or his agents for the purpose of obtaining information which it was not proper he should obtain. Let me read to you what His Highness the Gaekwar himself says upon this matter: "I declare that I never personally directed any of the Residency servants to act as spies on the Resident or report to me what was going on at the Residency, nor did I ever offer or cause to be paid any money to them for the same purpose." He does not say "he has never personally or by my agents," as he has said in the previous paragraphs. He limits his denial to his own personal acts. He proceeds: "I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions, such as marriage and the like. Information on trifling matters going on both

at the Residency or at my own Palace may have been mutually communicated; but I did not personally hold any intercourse with those servants for this purpose, nor am I personally cognisant of any payments for the same having been made; nor did I authorise any measures by which secrets of the Residency should be conveyed to me." This, I think, contains a very material admission. It simply comes to this—that the Maharaja denies that he personally had any communication with the Residency servants for improper purposes, but that money was given to Residency servants which, I think, may be considered as bribes. He also tacitly admits that such communications may have been made by his agents with these Residency servants, and that such payments were made by his agents to these servants for the purposes mentioned in the charges. My Lord, it is not for me to discuss whether or not there is any difference between the information which Colonel Phayre received and the information the Gaekwar received. It appears to me that there is a wide difference between a British Resident at a Native Court receiving voluntary information from persons who go to visit him and a Native Sovereign lending himself to bribing the servants at the Residency in order that they might convey information to him of what was going on there. I think that the difference need only be stated to be appreciated. But that the Maharaja did establish communications with the Residency servants for improper purposes, and did pay those servants for the communications they give him, is, I think, established beyond all doubt, not only by the admissions in his own plea to the Viceroy, but by the evidence given in this case. I don't think it will strike the Commission as improbable that persons in the position of the Residency servants should have been introduced into the presence of His Highness the Gaekwar. I don't think the Commission will be of opinion that there is anything in itself improbable in that which the Residency servants have told. I am tolerably sure that the Members of this Commission who have visited His Highness' Palace, the old Haveli in the city, will be satisfied that the accounts these servants have given of the way they were introduced into the Palace by a door abutting on the Nuzzer Bagh, and then going up a series of stairs to the room where the Maharaja sat, and who remember that the room had mirrors in it and that there was a bench on which His Highness used to sit,—I cannot think that the Members of this Commission will be of opinion that the story, so far as relates to the Maharaja's room, is an invention. It is not suggested by my learned friend that these servants have been taken to the Haveli since they made their statements to the police. On the contrary, that they have not been taken to the Haveli since they made their statements appears clear from the evidence recorded. That the rooms at the top of the house at that particular corner of the Palace were the rooms occupied by the Maharaja is admitted by Damodhur Punt; that the Maharaja would be likely to be found there results as a natural consequence from the fact that these were the rooms which he usually occupied. Although my learned friend has given up Yeshwuntrao and Salim, it is positively certain that these were two of His Highness' attendants, and were most frequently in the habit of accompanying him on his ceremonial visits to the Residency, and therefore these would be the men who would be most useful to him in his communication with the Residency servants. My learned friend admits that he is not in a position to quarrel with the account given by the gharry-drivers who accompanied the ayah when she went to the Haveli. It was from the statement of one of these gharry-drivers that a clue to this whole story was obtained. It cannot be doubted that the ayah went to the Haveli upon the occasions she has deposed to, and although my learned friend has suggested that she may have gone to see some of the servants of the Palace, I think that that is a suggestion based rather on my learned friend's idea of what would be a likely state of circumstances in a European Court than from what we know are matters of frequent, nay, almost daily, occurrence in the Native Courts of India. The servants in a Native Court stand on an entirely different footing from those in a European Court, and as Damodhur Punt himself has said, he did not live



in the Palace. There was nothing to show that there was any friendship existing between the ayah and any of the Palace servants except Salim and Yeshwuntrao, and as these she had constant opportunities of seeing at the Residency, there could be no occasion for her going to the Palace for the purpose of seeing them. Moreover, unless it were to see some one of greater importance than the servants at the Palace, is it likely that the servants at the Residency would have made the journey from the Residency to the city at the dead of night? You will remember that even Rowjee said that he felt so much alarmed at going into the town at night, that he induced people—at one time Jugga, and at another time Kabhai—to accompany him there. My learned friend does not suggest that the Maharaja was personated on the occasions when at these late hours the Residency servants visited the Palace. Such a suggestion it would have been impossible to make. There could be no mistake about His Highness with any one who had seen him. His appearance is sufficiently remarkable to render him recognisable by any one who has seen him even once, while those Residency servants having an opportunity of seeing him often could make no mistake about his identity. The suggestion therefore that any one could have personated the Maharaja upon these occasions would have been but a wild suggestion. I take it that it must be held to be established beyond all question that the ayah did on these three occasions go to the Palace in the city for the purpose of having a personal interview with the Maharaja. No doubt the evidence as to the personal interview rests upon the statement of the ayah and of those who accompanied her on those occasions into His Highness' presence—Faizoo on one occasion, and Kurrim on another. But there is important corroboration of their story upon these points to be found in the letters of the ayah, which were admittedly genuine. These were discovered in the house of the ayah, and passed between her and her husband at the time when one was at Mahableshtar and the other was in Bombay or Baroda. This is a branch of the case to which I don't think my learned friend will extend his argument that the whole of this is a fabrication by the police—not even the ingenuity of a policeman could account for the presence of post-marks upon some of these letters which were exhibited. Exhibits A, B, C and D show beyond a doubt that the ayah was in communication with Yeshwuntrao and Salim in regard to the matters affecting the Maharaja that passed at the Residency; and that she was even in direct communication with the Maharaja himself has been proved by the evidence of Syed Abdool. The letter which was written to the Maharaja does not appear to have been forwarded, because the husband of the ayah found no opportunity of delivering it to the person for whom it was intended. But it shows, does it not, that this ayah was in communication with His Highness upon matters of political importance? She mentions—and this is just one of the things that might be expected in the case—that her master and mistress had been dining at Government House, and she affects to give an account of conversations that took place there, and no doubt these were the kind of communications that the Maharaja would be desirous of receiving. That that letter was transmitted appears not only from the evidence of Syed Abdool, but also in the reference made in that letter D: "I do not know whether or not you have delivered the note (*chitti*) enclosed in my last letter to the person for whom it was intended. That person was, the ayah says in her evidence, His Highness the Gaekwar. I take it therefore as established upon the evidence, and established clearly, that these communications did exist between the Residency servants and His Highness; that these communications were held in secret, and for improper purposes. I do not suppose it could be contended that it would be a proper thing for a Prince to set household servants to repeat to him anything that passed at a British Resident's house; and when it is remembered that these communications were established about the time that General Meade's Commission was assembled at Baroda, and continued during the time that that Commission sat, and were continued afterwards, I apprehend

there can be no doubt in the minds of this Commission that what the Maharaja desired was to pick up from what might fall at the Resident's table or from the mouth of some of the Members of the Commission some private information that might be useful to him in shaping his course in reference to that investigation. Then, let us look at the nature of these communications. One of these news-letters is in evidence, and another is referred to in a statement by Wasuntrao Bhow—not a willing witness against his master, and a man who had been director of the State banks or shroffs' shops which had been established here and elsewhere by the Gaekwar, and a man who jumped at the suggestion put to him by my learned friend, Mr. Branson, that he was kept in jail for merely reading these letters, although the fact is that he is kept in custody by Sir Lewis Pelly upon charges of a serious nature. This man says that he was once called upon to read one of those letters that Damodhur Punt has told us about. Damodhur Punt tells us that these letters were passing day after day between the Residency and the Haveli, and that as soon as they were received they were destroyed. These payments were not merely for the repeating of conversations that might take place at the Residency table, but they extended to other matters; for we have it on the evidence of Damodhur Punt that Rowjee, at Nowsaree, brought an important document to the Maharaja—no less a document than a petition addressed by Jumnabae, the widow of Khunderao Maharaja, to the Government of Bombay—and that document was copied by Damodhur Punt by the orders of the Gaekwar, and then restored to Rowjee, who took it back again to the house of his master. Can it be said, my Lord, that these communications were for the mere reporting of idle gossip? Can it be said that these punkawallas, havildars, and other servants, the inferiority of whose position protected them from suspicion, were engaged by the Maharaja for the mere purpose of gathering idle chatter? In the short experience that I have had in this country, it strikes me as not at all unnatural that His Highness should endeavour to enlist the sympathy of the ladies of the Residency on his behalf, and for that purpose should seek to get the ayah to communicate with those ladies. This may appear unnatural to the Commission, but I don't think it will. Nor does it appear unnatural that His Highness should wish to enlist on his side Pedro, who had been a long time with the Resident, and from his position as waiter at the Resident's table would be perfectly cognizant of what was going on and able to repeat it to the Maharaja. It does occur to me also that the very men whom he would be anxious to get over to his side would be the headmen of the Resident's office establishment—the jemadars and havildars—men who could have access to the private office at all hours of the day; men who would be left in charge of that office during their master's absence, and might select any papers they might fancy would be of use to their employers. If you consider as to the sums paid to these men for the services they rendered, can you say that these sums are not bribes? My learned friend says that five hundred rupees is a small sum. In some points of view it is a small sum; it might be a small sum to the Maharaja, but it is a large sum to pay to men whose monthly pay is about ten or fourteen rupees—it is more than four years' pay to them. The payment of that sum to the witness Rowjee has not been disputed. He got it from Yeshwuntrao, through his clerk, who proved the payment in the witness-box, and that clerk, I may say, was not cross-examined by my learned friend; so that that payment must be taken to be proved beyond a doubt. Let me ask what inducement could there be for Yeshwuntrao to pay this sum of money? My learned friend says that Yeshwuntrao is an inferior creature, and might be in the service of Damodhur Punt. Then what inducement was there for Damodhur Punt to get this information for which so much money was paid? My learned friend's theory only goes so far as to say that it might have been worth while for Damodhur Punt to poison Colonel Phayre, but not to get information. My learned friend can only say so far that it might have been worth Damodhur Punt's while to poison Colonel Phayre, but he cannot go so far as to say that

he had any interest in obtaining information. Yet these five hundred rupees were given, and, as my learned friend says, long before, and not after, the poisoning was attempted. We have it in evidence that Yeshwuntrao was a confidential servant of the Gaekwar, and knew the Residency servants. Does it not seem beyond all possibility of doubt that that payment was not made by Damodhur Punt, but by the Gaekwar himself, through the hands of Yeshwuntrao? But, my Lord, that payment was not the only payment which Rowjee received for giving this information. He divided eight hundred rupees with Nursoo immediately after their return from Nowsaree, and immediately after Jumnaabae's petition to the Government of Bombay had been given to the Maharaja. You have here two large payments to these men in less than six months. I say that these payments were small as compared with the Maharaja's revenues, but they were enormous indeed compared with the regular salary of the persons employed. Then there is Pedro. Pedro is a witness upon whom my learned friend relied very much. Pedro admits a payment of sixty babashai rupees made to him when he was about to go to Goa, but it does not appear why that money should be given. Is it not likely that it should have been given for some services rendered? Then we have Shaik Kurrin, the chobdar, whom we find admitting the receipt of a hundred rupees at the same time that a hundred rupees were paid to the ayah. Again, we have another payment of fifty rupees to the ayah. Now, on referring to the entries put in by Damodhur Punt, you will find that payments corresponding, or nearly so, in amount to those bribes were made through the Khangee Department at the very time that the servants say that they received those bribes. [The Advocate-General here refers to Exhibit E.] This Exhibit shows that on the 19th of June 1874 six hundred rupees were paid to Yeshwuntrao, and were received by the hand of Salim. That would be about the time on which five hundred rupees were paid by Yeshwuntrao by the hands of his servant, Dhulput, to Rowjee, and as for the balance it would be consistent with what one would expect to find in a case of this kind, that some money should remain in the hands of Yeshwuntrao: so the Maharaja pays six hundred rupees, and Rowjee receives five hundred rupees. Then again as to the eight hundred rupees paid to Nursoo Jemadar, and which he divided with Rowjee after their return from Nowsaree, your Lordship will find that A 1 is a second payment made out of the treasury to the extent of one thousand rupees on the 8th of June 1874, and that would be very shortly after the return of His Highness the Gaekwar and of the Resident from Nowsaree. Your Lordship will remember that that took place some time in the end of May. Again, M 1 is a payment of two hundred rupees on the 15th of May 1874, which corresponds very nearly to the payment of the two hundred rupees to Kurrin and the ayah; and in following up these documents further, I think I may state that we find shown on the records of the Khangee Department payments out of that Department to Salim or Yeshwuntrao nearly corresponding to the sums of money received by the Residency servants at or about the time that the servants profess to have received those payments. Now, my Lord, I do not think it can be reasonably suggested that all these payments were made by Damodhur Punt to serve his own purposes. I do not think it can be suggested with any show of reason that Yeshwuntrao and Salim were merely agents of Damodhur Punt in this matter. No doubt the money was passed out of the treasury by Damodhur Punt, but the disbursements were made, I apprehend it is clear beyond a doubt, by the direction of the Maharaja. Of course there could be no reason for Damodhur Punt wishing to obtain information, and paying for it in this way, for himself; but there was a strong reason why he should wish to do so in the service of his master. That Rowjee had money is tolerably clear, because it was one of the matters that first directed the attention of the police to him. They had found out he had been making large purchases of jewellery in the bazaar at the time these monies were paid. Exhibit Y is the list of ornaments put in, and you will remember at what time these ornaments were made. The first set of ornaments was made in October,



February, and March (golden bracelets and rings, and so forth); and in the month of June, when the payment of eight hundred rupees was made, and divided between Nursoo and Rowjee, a silver anklet was purchased of the weight of over seventy rupees, and subsequently to that, and apparently about the same time, a necklace of gold venetians appears to have been bought. I think there can be no doubt that the money was supplied to Rowjee by the Maharaja the Gaekwar's directions out of the Gaekwar's treasury for the purpose of obtaining information of the character to which the witness has deposed. Couple that fact with the statement you find in His Highness' plea to the Viceroy, wherein he says that he never *personally* had had communications with the Residency servants—he does not deny that they made these communications through his agents—and I think the Commission will have no doubt whatever that the first two charges against His Highness are satisfactorily established. My Lord, my learned friend has suggested that an oriental Prince is likely to be surrounded by evil counsellors, and to have things attributed to him for which he cannot justly be held responsible. There can be no doubt that His Highness the Gaekwar was to some extent so surrounded by evil counsellors. I am not here to defend the character of Damodhur Punt. Nothing that my learned friend might say about that man would excite my indignation. He is not a man whom I would put forward as one whose uncorroborated evidence should be worthy of your great consideration. There is no doubt, from what he has admitted he has done, that he is a very bad man; but when we find that a man of that character is retained by His Highness the Gaekwar as his private secretary, as his most intimate confidant, as his most trusted servant, and when we find him, even after the attempt to poison Colonel Phayre was made and bruited abroad and under investigation, introducing that man to Sir Lewis Kelly at the Residency as his private secretary,—I must say that I do not think His Highness can come before this tribunal with any serious expectation of being held entirely irresponsible for anything that that person might do or say on his behalf. My learned friend has referred to Yeshwuntrao and Salim as likely to obey the behests of Damodhur Punt, but they would, my Lord, be more likely to obey the behests of the Maharaja than that of the Maharaja's private secretary. Therefore, if you find a series of witnesses coming forward here, and if you find one of these servants testifying that he issued orders by the directions of his master the Maharaja, though we may look upon that man with suspicion, and though we may desire not to believe him, yet nevertheless, looking at the probabilities, I apprehend it is difficult not to give him credence for telling a certain amount of what was true, especially as to his merely obeying his master in the matters to which he refers. My learned friend has admitted that Damodhur Punt, Yeshwuntrao, and Salim are the three persons likely to take part in any such attempt as is alluded to here in the Viceroy's notification in the third and fourth charges against His Highness. I think that is going a great way. These charges are, "that his purposes in holding such communications and giving such bribes were to use the said servants as spies upon Colonel Phayre, and thereby improperly to obtain information of secrets and to cause injury to Colonel Phayre, or to remove him by means of poison; that, in fact, an attempt to poison Colonel Phayre was made by persons instigated thereto by the said Mulharrao Gaekwar." We have therefore this—that in regard to this most serious charge, my learned friend admits if that His Highness was so concerned, he could scarcely have found three better instruments than his private secretary and his two confidential attendants. Now, my Lord, before I go into the investigation of the evidence which connects the Gaekwar with the attempt to poison Colonel Phayre, let me briefly refer to one or two matters on which my learned friend has also dwelt at considerable length. I think my learned friend suggested rather than argued that this Commission could come to no other conclusion than this attempt to poison Colonel Phayre was not in point of fact made by some one on the 9th of November when he asked if the Commission were satisfied that such an attempt had been made. I don't think

that he himself could dispute that such an attempt was made by some one or another. Nor do I think that my learned friend could have seriously contended that that attempt was not made by arsenic and diamond dust. A good deal was said by my learned friend upon the color of the sediment which Colonel Phayre noticed in the glass, and which was also shown to Dr. Seward; but I think that the Commission, looking carefully to the evidence upon that point, can only come to this conclusion, that, although a good deal was said upon this branch of the case, there really is not much in it. Colonel Phayre no doubt describes the sediment that he noticed as being dark, and undoubtedly to him it may have appeared to be such. Some of it was at the bottom of the glass, and the rest was trickling down the side of it. That glass had previously been filled with a preparation of pummelo juice, which is of a reddish or pinkish color. Colonel Phayre at the time he noticed the sediment at the bottom of the glass was under the influence of poison, if poison was there at all; and one of the effects produced upon him by the poison he imbibed was, as you will remember he stated himself, that his head was dizzy and swimming round. I will give your Lordship the exact words, because they are of considerable importance: "I felt a sort of dizziness in my head, and as if my head were going round slightly." It may be that Colonel Phayre, seeing the light through the colored fluid, would be very likely to attribute to the sediment a darker color than the more practised eye and less excited observation of Dr. Seward would attribute to it. Again, the liquid in which the sediment was contained was dark or darkish, and even a white powder put into a dark liquid would probably look dark until separated from the fluid; and supposing the liquid to have been dark, it may be quite natural that Colonel Phayre should see that dark which Dr. Seward, after separating it from the liquid, would consider to be a tawny or fawn color. My learned friend has made a suggestion which is a perfectly fair one, and which I accept as a possible explanation of this affair. He says that some people have not that sharp perception of colors which others have, and it may be quite possible that Colonel Phayre has not that perception of color which Dr. Seward has. Another thing is, that if Colonel Phayre held the tumbler against a dark table or something dark, the darkness might appear to be communicated in some degree to the contents of the glass. But whatever the impression produced upon Colonel Phayre's eyes may have been under the circumstances I have detailed, I apprehend there can be no doubt as to the impression produced upon Dr. Seward. He had not imbibed poison. He came over at once to the Residency on being called, and he could calmly examine the contents of the glass. He says he held the glass against the light and then detected this fawn-colored powder, which may have been what would naturally follow a calm investigation. Rowjee described the powder he received as of a dark color. We all know how natives in this country in speaking of color do not express the gradations that Europeans are accustomed to. Anything in the slightest degree dark would be *kala* to a native. While Rowjee used this word *kala*, he qualified it by pointing to a sun-topee upon the table and said it was like that. The topee pointed out was of a bluish grey color. Rowjee qualified that again by saying that, although it was like the hat, it was perhaps of a still lighter hue.

Serjeant Ballantine—Oh, no. He said it was darker.

The Advocate-General (after referring to the notes)—My learned friend is right. I remember that some emery powder was shown to Rowjee by Mr. Jardine. But at all events the darkness he meant was only a little darker than the hat he pointed out. As to Dr. Seward's evidence upon the point, I think there can be no doubt whatever about its correctness. He examined the powder with the care of a man of science who would afterwards have to experimentalise upon it, and if the glass were found by him to contain any deleterious matter, its presence there would of course be a subject

of close examination. In fact, I think Dr. Seward's evidence should be accepted as perfectly conclusive. That that sediment was found to contain the two ingredients—arsenic and diamond dust—I apprehend there can be no doubt. Dr. Seward by his own experiments detected arsenic by means of the reduction test and the diamond dust by means of microscopic investigation. The reduction test, though one of the simplest tests, is at the same time one of the surest tests for the discovery of arsenic; and though the metallic ring he saw was not reduced into crystals of arsenic, there can be no doubt whatever that that metallic ring by itself established, unless disproved, an almost conclusive proof of the presence of arsenic in the substance from which that ring had been evolved. Dr. Gray subjected the sediment sent to him to the most rigorous investigation. He was not satisfied with the reduction test, although on applying it he found precisely the same sort of metallic ring that had been found by Dr. Seward; but he adopted a number of other tests, which I shall not weary you by describing. But having by these tests reduced the sediment to various chemical substances, he from these substances evolved the pure arsenic again. There can be no doubt as to that.

The President (referring to his notes) said he was not sure whether Dr. Gray said he had done that.

The Advocate-General—Yes, my Lord; you will find it at page 68 of the short-hand writer's notes. Dr. Gray was asked whether he had extracted the arsenic bodily from parts of the powder, though not by the reduction process, and he replied that he had done so by the test called the sublimation test. In regard to Dr. Seward, I may mention that although he did not reduce the metallic ring into the form of arsenic, yet by another test he discovered octahedral crystals, which is one of the surest indications of the presence of arsenic. [Page 55 of the short-hand writer's notes referred to.] There can be no doubt whatever therefore regarding this scientific evidence, which has not been contradicted in any way, that in the sediment extracted by Dr. Seward on the morning of the 9th from the contents of Colonel Phayre's tumbler arsenic was extracted to the extent of about a grain, though Dr. Seward's appliances did not enable him to determine the exact amount. If these tests were not conclusive, there is also the other circumstance which Dr. Seward noticed—namely, the powdery film that was created by gently shaking the fluid in the bottom of the tumbler. This film was noticed before the addition of any water to Dr. Seward's glass, and it is regarded as a very sure sign of the presence of arsenic. Upon the medical testimony recorded here, I do not think the Commission can come to any other conclusion than that arsenic had been introduced into Colonel Phayre's glass in very considerable quantities. I hardly think that my learned friend would ask your Lordship to hold that in the water poured into the sediment by Dr. Seward the arsenic was contained. Govind, a witness called here, said that on that morning he had filled the *koajah* from which Dr. Seward took the water from a *mutka* which was kept for the general use of the house. Although my learned friend asked several questions upon this subject, I do not think the Commission will conclude that in that tumbler there was not arsenic or some deleterious substance on the morning of the 9th. There is no question whatever that Dr. Seward took every precaution he could in sending the packet to Bombay, and that the examinations conducted by Dr. Gray and himself corroborated each other. Though diamond dust does not offer the same ready means of detection as arsenic, yet there are some processes by which a clear conclusion may be arrived at to show its presence. First of all, there are the particles themselves, which, Dr. Seward has told us, are distinguished by their lustrousness and their hardness, and here they are known by the way they withstood the severest test under the spirit-lamp and several powerful chemical agents. Notwithstanding their exiguity, he was able, by rubbing one small piece of glass with another, one of which had a small portion of the diamond upon it, to produce a scratch upon the glass. Dr. Seward said that besides diamonds he knows only one other substance that will scratch glass in this way—namely, collodion. My



learned friend was referred to Dr. Gray for information on the subject of colloidion, but in the cross-examination of Dr. Gray not a single question was asked about it. The microscopic test which was offered to the Commission is still available, but I think that the statements of Dr. Seward and Dr. Gray, both men of science and perfectly independent, will be accepted as conclusive evidence upon the point. Without having had any communication with each other, both of these gentlemen came to the conclusion that the other substance found in the sediment besides arsenic was diamond dust. Dr. Gray's attention to it was not called until he himself had written to enquire whether or not the substance was diamond dust. This conclusion occurred to him independently of any information from Baroda. Colonel Phayre's communication from Baroda, in which he mentioned the probable presence of diamond dust, crossed Dr. Gray's letter of enquiry on the way here; so that, as I have said, it was his independent observations that led him to conclude that he had diamond dust before him. [Dr. Gray's letter, Exhibit U, referred to.] I think that the further investigations of Dr. Gray support most conclusively the result of his examination of the sediment sent to him by Dr. Seward from Baroda. You will remember that Dr. Gray, being puzzled in his mind, writes to Colonel Phayre and reminds him that he had said he threw some of the contents of the tumbler out upon the chunam verandah outside of his office. Colonel Phayre proceeds there at once, and in his presence traces are found of the marks of the sherbet which he had thrown out of the window on the morning of the 9th. He scrapes up a portion of the chunam, puts it into a paper, seals it, and sends it to Dr. Gray, by whom the same substances as before were discovered. Unless it is contended that Dr. Gray deliberately put diamond dust and arsenic into the scrapings sent to him from Baroda, it must be admitted that they formed part of the contents of the tumbler. In fact, I have no doubt whatever that diamond dust and arsenic were introduced into Colonel Phayre's tumbler on the morning of the 9th November. [Refers to Exhibit I.] That is a letter to which I have referred in the course of my remarks.

*Nineteenth day, Wednesday, March 17.*

The Advocate-General resumed his address as follows:—My Lord, in the observations which I addressed to the Commission yesterday, I endeavoured to show, and I think I did establish, that the first two charges contained in the Notification of His Excellency the Viceroy had been made out—namely, that the Gaekwar had communicated for improper purposes with certain of the Residency servants, and had given them bribes through his confidential attendants Yeshwuntrao and Salim. My learned friend has already admitted that Damodhur Punt, Yeshwuntrao and Salim were persons proper to be entrusted with such a crime as is here charged under the third and fourth heads of charge; and I have shewn, I think, that on the 9th of November, in point of fact, an attempt to poison Colonel Phayre was made; that deleterious ingredients were placed in his tumbler of sherbet. One of these has been proved to be arsenic, which is certainly a poison, and the other is diamond dust, which, my learned friend was fain to admit, is by some persons, or a certain class of persons out here, believed to be a poison. I may in connection with this, I think, usefully refer to one point in the case which has always appeared to me to be rather a small point, but on which my learned friend having dealt, I must deal with as briefly as may be—and it is this. It appears to me very clearly on the evidence that no other deleterious ingredients than arsenic and diamond dust were introduced into Colonel Phayre's sherbet. It will be in the recollection of the Commission that the suggestion was thrown out as having been conveyed in an intimation to Colonel Phayre by Bhow Pooniker, who had himself received it from one Bulwuntrao, that another ingredient, namely copper, had been introduced along with the diamond dust and arsenic. But the scientific

investigation of the sediment discovered in the tumbler has shown conclusively that no trace of copper could be found in it by analysis. My learned friend dwelt upon the fact that among the symptoms described by Colonel Phayre as proceeding from the administration of poison to him, was the experiencing of a metallic taste in the mouth. My learned friend also established, by the evidence of Dr Gray, that if copper, or a preparation of copper, is taken into the mouth, the taste is experienced at once. Colonel Phayre's evidence is perfectly clear that the metallic taste did not at once present itself. It was not until some twenty minutes or half an hour after he had taken the sherbet that he among other symptoms perceived the metallic taste in his mouth. Had there been copper or a preparation of copper, Dr. Gray's evidence shows that Colonel Phayre would at once have experienced a metallic taste, but it is very clear that he did not experience this immediately, and it was not until about half an hour afterwards that he had a feeling of nausea and the other symptoms that he described. The evidence upon that point is very clearly given by Colonel Phayre at pages 48 and 59 of the short-hand writer's notes. At page 48, my learned friend asks Colonel Phayre—"You said previously, didn't you, that there was a coppery taste in the liquid that you had?" And Colonel Phayre replies—"No, I said to Dr. Seward that there was a copper taste in my mouth after drinking it." And again he says—"I did not taste it in the liquid, but in my mouth afterwards." It is perfectly clear from this that there was not such a metallic taste produced by Colonel Phayre drinking this sherbet as would have been produced had there been any preparation of copper put in with the other poison; but, as I say, it was not till afterwards that Colonel Phayre experienced this coppery taste when he felt the symptoms produced by taking the sherbet. That a metallic taste in the mouth is frequently experienced, or sometimes, at all events, by persons suffering from arsenical poisoning, is shown by Dr. Gray's evidence at page 68 of the short-hand writer's notes, where, after being asked whether a metallic taste was produced by taking arsenic, he replied—"In the course of my experience as Chemical Analyser, regarding arsenical poisoning, a metallic taste is often experienced." That answer is not very correctly taken down; but what Dr. Gray meant was that he had known persons suffering from arsenical poison complain of a metallic taste as one of their symptoms. I think the whole of the evidence disproves the suggestion that there was any copper introduced into Colonel Phayre's sherbet, or that anything in point of fact was introduced but diamond dust and arsenic. I may now refer to the quantity of arsenic found. Dr. Gray states that in the two packets submitted to him—one from the tumbler itself, and the other scraped from the verandah—he found  $2\frac{1}{4}$  grains of arsenic. Dr. Seward, in the portion examined by him, says he found between one and two grains. (Page 61 of notes referred to). We have here therefore between three and four grains of arsenic discovered by the chemical analysts in so much of the sediment as was recovered; and how much more there may have been in the sherbet before Colonel Phayre threw some of it away, it is impossible to say. The quantity discovered, however, was more than enough to constitute a fatal dose—a fatal dose, as Dr. Gray told us, being about  $2\frac{1}{2}$  grains of arsenic. Another small point to which I may refer in regard to this part of the case is, that it is shown perfectly clear by Colonel Phayre's evidence that from the time he put down the glass after taking one or two sips of sherbet, until the time when he handed over the remains of the sherbet together with the sediment to Dr. Seward no one had any opportunity of tampering with that glass, of approaching it, or putting anything into it. Colonel Phayre's evidence on that point is at page 52 of the notes, and is in these terms:—"From the time that you first noticed this black sediment at the bottom of the tumbler until the time when you handed the tumbler to Dr. Seward, had any one access to that tumbler?—No one came into the room. There was only myself in the room until I gave it to Dr. Seward. No one had access to the tumbler." It is therefore clear, if Colonel Phayre is to be believed, that from the time he first took a sip of the sherbet until he handed the

remains of it to Dr. Seward, no one had access to the tumbler, and it is equally clear that the poison must have been put in before Colonel Phayre had returned from his walk, and before he took a sip or two from the sherbet he found prepared for him. The next point to which I would invite the attention of the Commission is this. Taking it to be established that arsenic and diamond dust were deposited by some one or other in Colonel Phayre's sherbet on the 9th November, what is the evidence as to the source from which these two articles were obtained? A vulgar poisoner, or one who had not the command of considerable means, would not be likely to resort to diamond dust, albeit he might be likely to resort to arsenic; and the possession of diamond dust would therefore argue the possession of considerable wealth, as well as of an intention to employ, no matter at what cost, such means as he believed would be capable of effecting his object. Now, upon the theories that have been put forward by my learned friend, either that Bhow Poonikur or those who were acting with him, or Damodhur Punt, and those acting with him were the persons by whom this dose of poison was sought to be administered, I think it is unlikely that such an expensive article as diamond dust would be resorted to by these persons. These suggestions are sufficiently improbable for other reasons to which I shall afterwards call the attention of the Commission. But there would be no improbability in a person in the position of the Gaekwar employing such an expensive ingredient as diamond dust, supposing him to have entertained the belief in its poisonous qualities which Dr. Chevers asserts to be prevalent among the natives of India. From his position he would be perfectly well able to procure either of these articles. He could easily procure arsenic, as indeed most people can in this country. I do not see myself that there is much difficulty in getting almost any quantity of arsenic that is required. We have heard recently of a man, without any apparent reason for it, buying in a shop 8lbs of arsenic, and I suppose it may be taken for granted that if a man wants to get arsenic in the bazaars of India he can get any quantity. In Baroda, however, there is a greater difficulty. My learned friend brought out the fact that in Baroda arsenic could only be obtained from the Fouzdaree, upon the special order of the Maharaja himself; and Damodhur Punt has produced an order, not from the Maharaja indeed, nor as my learned friend somewhat inaccurately said, bearing any endorsement of the Maharaja, though it does bear an endorsement in which the Maharaja's name appears, by which the Fouzdar was directed to give arsenic for the purpose of making medicine for a horse. That order is exhibit Z, and is at page 112 of the short-hand writer's notes; and the date of it is the 4th October 1874. Now Damodhur Trimbuck says that that order was written by him at the direction of the Maharaja. In the endorsement which was made by the Fouzdaree officer upon that document we find that the name of the Maharaja is introduced. The signature is, I think, Gunputrao Bulwunt, and the order is addressed to Datatria, who says that no arsenic was in point of fact issued from the Fouzdaree on that order. He says also that there would have been no difficulty in furnishing arsenic upon that document, had the person in whose favor it was drawn out come and applied for it. But Damodhur Trimbuck shows clearly why it was the arsenic was not supplied on that order. He says that Mr. Hormusjee Ardasir Wadia, who was then Fouzdar, refused to issue arsenic upon it till he had communicated with the Maharaja. Mr. Hormusjee is a gentleman of high position and reputation. He arrived in Baroda at the end of last week; he is now sitting at this table; and he has not been called on by the defence in regard to his reasons for not supplying the arsenic. I apprehend that if it had been possible to disprove Damodhur Punt's statements upon that point, Mr. Hormusjee Wadia would have been put into the witness-box. I think, therefore, that Damodhur Punt may be taken to be most materially corroborated by the document to which I have referred. I would call the attention of the Commission to this—that the endorsement, which is not the endorsement of the Maharaja, but simply the endorsement of one of the officers of the Fouzdaree department, is in these terms:



“Shrimunt Sirkar.” No doubt my learned friend was somewhat misled when he stated that the Gaekwar had endorsed this order. It is not so. There is merely an endorsement in which the Gaekwar’s name is mentioned. But when my learned friend says that the obvious answer the Gaekwar would make to any objection on the part of Hormusjee to deliver out arsenic upon the order in question would be, “Why, all the arsenic in the Fouzdaree is mine. Go and get it!” When my learned friend puts that argument, it would be a perfectly good one if it could be shown that the arsenic was for the purpose specified in the order—namely, medicine for a horse. But it does not apply here, as the arsenic seems to have been wanted for the purpose of poisoning Colonel Phayre. I can understand the Maharaja having no objection whatever to putting his name to a paper which was merely to warrant an order for arsenic for medicine for a horse, but he might well hesitate to put his name to an order for arsenic for a human being, and might well, as Damodhur Punt says, be anxious to get the arsenic elsewhere. My learned friend uses the argument:—“If the Gaekwar had been desirous to use poison, the last thing on earth that he would have done would have been to put his name upon the order.” But he has never used that order, and I use my learned friend’s argument against himself. Then again, as to the obtaining of diamond dust, my learned friend, feeling no doubt that diamond dust would be an article at the command of His Highness, sought to show that had diamond dust been required for the purpose of poisoning Colonel Phayre, nothing could have been easier than for him to have supplied some diamonds out of his stores for that purpose. Now it is no doubt true, as stated by Nanajee Vithul, that diamonds are kept in the jewel department at the Palace in considerable quantities, that jewellers’ work is always going on, and that at the period to which these transactions refer a scabbard and the hilt of a sword were being encrusted with diamonds. But I think it will occur to the Native Members of the Commission, and probably to all the Members of the Commission, that when in the jewel department of a Native Court diamonds are being used for the purpose of ornamentation, a very strict account is required of the manner in which the stones are applied. For their own protection the workmen requiring these stones would be desirous that such an account should be kept; and if a stone was taken away, they would desire, as a safeguard to themselves, to see that it should be entered in some document or other. Moreover, it does not follow that because a scabbard and hilt were being encrusted, diamond chips of the small size and comparatively inexpensive quality that are alleged to have been used on this occasion would not be turned to account. It may be very well to take small chips and pound them up by some means or other; but it would be a different thing to take stones of value and pound them up and reduce them to powder for the purpose of using it for nefarious purposes. And I do not think that the mere fact of diamonds being used about this time for the purpose of ornamentation can countervail the evidence in this case, having consideration to the fact I have just suggested that a strict account of all jewels is kept in Native Courts, and that workmen employed among them would, if any were withdrawn, require an account of it. Even according to the evidence of Hemchund Futteychund, whom my learned friend put forward as a thoroughly trustworthy and credible witness, as a witness whose mistakes and errors were on the same footing as the mistakes and errors of Colonel Phayre, though what errors are alluded to on the part of Colonel Phayre I do not know—at all events, this Hemchund Futteychund, whom my learned friend put on the same level of presumable veracity as an officer in Colonel Phayre’s position says he was asked about the time of the Dusserah to bring small diamonds to the Palace; and that he and other jewellers did so bring small diamonds to the Palace, albeit he says these diamonds were returned to him. We have it, therefore, perfectly clear, according to the evidence of this unimpeachable witness, that diamonds were required for some purpose or another at the Palace. That they were purchased, that they were retained, is proved not only by Damodhur Punt himself, but also by Nanajee Vithul, the head-

man in the jewel department, and by Atmaram Raghoonath, one of the principal clerks employed there. It is also perfectly certain that whatever Damodhur Punt may say in other matters, he is perfectly correct, according to Hemchund, in this statement, that small diamond chips ("bookkie") were required at the time of the Dusserah, that is at or about the 20th October. The only way the diamond chips so required at the Palace can be disposed of on the part of the defence is by the evidence of Hemchund, who swears they were returned to him. As to the value of that evidence, I shall have something to say hereafter. Here, however, we may rest assured that the diamonds likely to be employed for a purpose of this kind were sent for inspection, and (as we say) purchased at the time to which these transactions relate. We, therefore, have at all events the possession of the two ingredients found in the sherbet by persons in the service of the Maharaja during the time that Rowjee and Nursoo say the packets were delivered to them. This is shown by incontrovertible evidence. And as I am upon this point, I may, as conveniently here as at any other part of my argument, refer to the case of the Borah Nooroodeen, from whom Damodhur Punt says the arsenic was obtained, and who, my learned friend says, has not been called. My learned friend is quite entitled to the benefit of any inference he may draw from that circumstance. But there was nothing to prevent his being called by my learned friend himself if he wished to contradict Damodhur Punt's evidence on this point. In a certain view of the cross-examination by my learned friend, I might have been placed under the necessity of putting Nooroodeen into the box. If there had been a challenge whether Nooroodeen did supply this arsenic, there would not have been the slightest difficulty in getting him to give evidence. But there was no such necessity. I hear my learned friend, Mr. Branson, making a suggestion on the point, and I will meet it. He says Nooroodeen was an enemy of the Gaekwar. I do not know how that is proved. It is proved that a Borah named Nooroodeen was a complainant before the last Commission; but it is not shown that his complaint was not then redressed: and, that being so, there is no reason to show that his hostile feelings had not disappeared. But at all events, enemy or no enemy, this much is certain that the propriety of calling Nooroodeen here as a witness had not suggested itself to my learned friend, and Damodhur Trimbuck's statement on this point remains entirely uncontradicted. The attorneys for the defence have had full access to Nooroodeen and everybody else whom they wished to see in regard to this case, and no doubt they satisfied themselves as to whether it was desirable to call Nooroodeen and others. The result of their discretion is, however, that no witnesses have been called; and the Commission will, of course, draw such conclusions as it thinks just from that fact. Now, my Lord, the next point to which I would refer, having shown that there was in point of fact an administration of arsenic to Colonel Phayre on the day in question, and having shown that at all events the evidence points to the possession by servants of His Highness, under His Highness' directions, of these two articles at the time we say they were obtained by order of His Highness. It will be in the recollection of the Commission that the evidence shows that Rowjee was the person who received certain packets from Salim, and deposited the contents of one of these packets in Colonel Phayre's glass on the 9th November. It is not suggested that any one else but Rowjee put these packets into the tumbler. My learned friend, fertile in suggestions though he has shown himself to be in the course of this case, did not suggest that any other hand than that of Rowjee's was employed for the purpose of putting the arsenic and diamond dust into Colonel Phayre's tumbler; and so therefore we may take it as a fact, undisputed in the case, that Rowjee's was the hand by which this was placed in Colonel Phayre's sherbet. Now, my Lord, comes a very important class of considerations to which I beg to draw the attention of the Commission. Whose object could it be to make this attempt upon Colonel Phayre's life? Who could be interested in administering poison to him? Four classes of witnesses have been suggested as being likely or possibly concerned in the attempt, and the first class is the Residency

servants. Now my learned friend made that suggestion only to answer it. He said with perfect truth that they could have no object in administering poison to a man who was a good master, from whom they received wages, and against whom it is not shown they had any cause of complaint. I may take it, therefore, upon my learned friend's own admission, that the Residency servants were not the concoctors of this attempt for any personal reasons of their own. Then the next class of persons who it is suggested would be likely to engage in a conspiracy of this kind were Bhow Poonikur and those who were acting with him. Now, my learned friend was very hard upon Bhow Poonikur. He called him—on what grounds I fail to discover after a careful perusal of the evidence—the Gaekwar's bitterest enemy. He said he was the man who had Colonel Phayre entirely under his control; that he was a spy; and that, in all human probability, he controlled all the actions of Colonel Phayre. My Lord, the evidence shows that Bhow Poonikur was examined in this case as well as Colonel Phayre in regard to this point; and that Bhow Poonikur is, at all events in Colonel Phayre's opinion—and no evidence to the contrary has been produced—a perfectly honourable and trustworthy man. He has lived in Baroda the greater part of his life, having come here when a child; he has held various appointments, to not one of which anything discreditable could be attached. At present he is employed as agent to Mr. Hope, the Collector of Surat, in regard to a ward of the British Government named Meer Zulfukkar Ali, the son of a gentleman whom your Lordship will very well remember, the Nawab of Surat. This young gentleman has considerable estates in the Baroda territory, and Bhow Poonikur, it appears, had such confidence reposed in him that he has been employed by Mr. Hope to look after those estates. He came with a letter of introduction to Colonel Phayre from Mr. Hope; and I do not think Mr. Hope is a man who would give letters of introduction to persons he did not consider perfectly worthy of them. Bhow Poonikur has not only to look after these Baroda estates of the young ward, but he is also trusted with business by many of the sirdars and sowcars in the Baroda territory. He has the management of their affairs as well as of those of the son of Mir Jaffir Ali. He lives in Baroda; his life has been open to inspection, and not one single thing has been alleged against him, except that in representing the various interests I have enumerated he found it necessary to bring forward at Colonel Meade's Commission four cases on behalf of his employers. I cannot see anything in that to warrant the conclusion that my learned friend has drawn, that he is the Gaekwar's bitterest enemy. Surely something more than has been adduced here should have been brought forward to warrant what has been said against him. As to his influence over Colonel Phayre, that entirely exists in the imagination of my learned friend. He put the question to Colonel Phayre: "Was he not in the habit of seeing you daily?"—and Colonel Phayre admitted that he did use to come to him almost daily upon business of one kind or another. But because one man comes to see another daily, it is rather a *non sequitur* to argue that therefore he controls the actions of the person he visits. It has been alleged also that he it was who gave information to Colonel Phayre about the preparation of the khureeta of November; but there is nothing extraordinary in that, Bhow Poonikur says that he heard of it from two or three people connected with the Durbar and then mentioned it to Colonel Phayre, and it must be remembered that those sirdars and sowcars by whom he was employed would naturally know what was going on at the Gaekwar's durbars, and certainly these persons, going or coming from the Durbar, would know of any matter of importance that was being discussed. It is not surprising, therefore, that he should inform Colonel Phayre that a khureeta was in course of preparation, although his information did not enable him to go so far as to say, because he did not know, what the nature of it was. I cannot see that there could be any impropriety in telling Colonel Phayre about that khureeta, because any khureeta either to the Government of Bombay or the Government of India would have to pass through the hands of the Resident before it could be forwarded. Colonel Phayre



has already told the Commission that khureetas were to be sent to the British Resident, accompanied by an English translation, and it was his duty to forward it to the Government to which it was addressed, together with such observations of his own as he deemed it desirable to make. At page 50 of the short-hand writer's notes the Commission will find, in the cross-examination, the statement to which I have just referred. Now, surely these circumstances, which are all that can be urged against Bhow Poonikur, are a very slight foundation indeed upon which my friend would be entitled to build his sweeping assertion that Bhow Poonikur was the Gaekwar's bitterest enemy, that he controlled Colonel Phayre's actions, and that he was Colonel Phayre's spy. Hard words these, no doubt; but I do not think they will produce much effect, and I think the Commission will prefer to form their own opinion about Bhow Poonikur without accepting my learned friend's harsh and entirely unwarranted account of him. But having regard to the relations between Colonel Phayre and Bhow Poonikur, as described by the evidence, does it not occur to the Commission as ludicrously improbable that Bhow Poonikur or those acting with him—the very men who, he says, had Colonel Phayre in their hands—a puppet, the wires of which they could pull at any time—does it not seem improbable that these men should desire to see him either removed or killed? It would be to the interest of Bhow Poonikur, whether or not he was an honourable and trustworthy man, engaged in the performance of respectable duties, or whether he really was a wirepuller of the puppet, Colonel Phayre—it would be his interest, I say, and that of those associated with him, to keep him alive in Baroda rather than conspire to lay him in his grave. As for the utterly wild suggestion that Bhow Poonikur only wished a sham attempt to be made upon Colonel Phayre's life, and then step in and appear as the *Deus ex machina* who was to save him from the danger he appeared to be in—how does that consist with the facts proved regarding the enormous quantity of arsenic, more than enough to kill him, that was introduced into Colonel Phayre's glass? And how does it consist with the fact that Bhow Poonikur instead of rushing on to the scene in the nick of time, snatching the poisoned goblet from Colonel Phayre's uplifted hands, and dashing it to the ground, does not appear until several hours afterwards, when the sediment had been given to Dr. Seward, and then does not say a word about the affair until Colonel Phayre mentions it himself? I think the suggestion that Bhow Poonikur had anything to do with this crime is one which the Commission will dismiss from their minds. Then we come to a suggestion which my learned friend, though not putting it forward as a matter he undertook to prove, nevertheless put forward, not once but several times, to the effect that Damodhur Punt was the person whose interest it was to get rid of Colonel Phayre, and who therefore might have made the attempt to poison him. My learned friend's argument upon this point rested entirely upon an illusory basis. Damodhur Punt, says my learned friend, had been guilty of gross frauds and embezzlement of the property of his master. He, according to my learned friend, knew that Colonel Phayre was sifting everything in regard to everything about the Palace affairs, and in order to prevent Colonel Phayre from overhauling his accounts he determined to try and poison him! Now, I cannot imagine upon what information my learned friend was proceeding when he suggested that Colonel Phayre was likely to do any such thing as overhaul Damodhur Punt's accounts. It certainly does not appear from the evidence that Colonel Phayre entertained any such idea. On the contrary, as must be perfectly well known to at least four of the Members of the Commission from their own personal experience, and probably also to your Lordship and Mr. Melvill, to overhaul the Maharaja's khangee or private accounts would be entirely beyond the power of Colonel Phayre. There could be nothing in the duties devolved upon Colonel Phayre by the British Government that would entitle him to interfere with the Maharaja's private accounts, regarding which Damodhur Punt's accounts entirely related. Damodhur Punt had therefore nothing to fear from Colonel Phayre's investigations. The only investigations which

Colonel Phayre could make would relate not to private accounts, but rather to the political relations existing between the ruler of Baroda and the British Government. Nor is there anything in the whole course of the evidence laid before this Commission to show that Colonel Phayre had even anything to do with the examination of the Gaekwar's state accounts at the time when these transactions occurred. Moreover, it is an entire assumption on the part of my learned friend to say that Damodhur Punt had been guilty either of fraud or embezzlement. No frauds or embezzlement have yet been traced to him. No doubt there is in Damodhur Punt's character ground for supposing that a man supposed to be guilty of attempting a murder would lend himself to fraud on his own behalf. But no such fraud has been pointed out. There is not the slightest evidence that anything of the kind occurred. And though my learned friend made a great point when he asked Damodhur Punt, "Have you a single piece of paper to show that you had the Maharaja's authority to expend money." And Damodhur Punt said he had not, I do not think that Damodhur Punt could be expected to have any such writing. He told us that the Maharaja was not in the habit of signing accounts, and it will be consistent with the knowledge of the Commission that the Maharaja would not be likely to sign these accounts. Damodhur Punt told us that accounts were kept in five different places, and he explains how this was. My learned friend, no doubt following English ideas on the subject, and supposing a Native Court to be the same as an English banking house, had good grounds for the suggestion he made; but according to the principles of book-keeping that prevailed in the Haveli, Damodhur Punt was perfectly right in saying that he had every means of clearing himself in the event of enquiry. He had the accounts; he produced them here, and you would see that he produced the fullest vouchers. Your Lordship and the other Members of the Commission will doubtless remember the form of the 'yads' that Damodhur Punt showed us. There was on them, first of all, a statement or memorandum by a clerk stating the particulars for which the sum of money is to be expended. Following that memorandum you have the endorsement of the Khangeewalla himself, stating that the permission of the Gaekwar has been obtained for the expenditure. Then you have the receipt of the person to whom the payment was made. You will see therefore that Damodhur Punt had in these yads the best voucher he could have had for the expenditure made through him, when he possessed the receipt of the person into whose hands the money had passed. When he spoke of five places he had doubtless this in his mind, that although it would be easy to forget a memorandum and get a receipt put upon it, yet as the payment of all these accounts passed through several hands and was recorded in several books, it would be easy to see whether the money had been expended as the *yad* professed. There was not only this *yad*, but an account of the yads was prepared in the treasury daily; then a monthly account or *thalibund* was prepared from the daily accounts; and again an annual statement was compiled from the monthly accounts. Any payment made would therefore have to be traced through five places, and according to the native system of book-keeping that would afford ample means, from one point of view, of discovering whether fraud or embezzlement had been practised, for in order to do so the whole of these books would have had to be falsified, and the whole establishment made parties to the attempted fraud in order to prevent it from being detected. It may be that the servants of the Gaekwar were not of so high and honorable a character as men in their position ought to be; but it seems to be rather hard, upon my learned friend's suggestion, that the whole establishment should be tainted with vice, so that amongst them all not one honest man could be found. I think therefore that the notion that fraud and embezzlement had been committed by Damodhur Punt is one that must have emanated from my learned friend's imagination. If I am right in the contention that there was no danger whatever of the private accounts of the Maharaja being overhauled by Colonel Phayre, my learned friend's theory about Damodhur Punt falls to the ground.

Damodhur Punt could only have been anxious to get rid of Colonel Phayre, because Colonel Phayre was obnoxious to his master. The evidence is that he had no acquaintance with Colonel Phayre, for although he accompanied the Maharaja on His Highness' visit to the Residency, he used to get out of the carriage at the Shriwak's Dhurumsala, and get into it again when the Maharaja returned. Although the Maharaja introduced him on one occasion to Colonel Sir Lewis Pelly shortly after his arrival here, he had no acquaintance with Colonel Phayre. He could not therefore have wished to get rid of the Resident on his own account, and my learned friend's theory upon that subject will no more hold water than his theory about Bhow Poonikur can. Now, my Lord, we come to the last person mentioned in connection with this matter whose interest it might have been to get rid of Colonel Phayre,—I mean the Maharaja himself. My learned friend has told us that in opening this case to the Commission I did not say anything in regard to the motive which His Highness might have had for wishing to poison Colonel Phayre, and my learned friend expressed the opinion, which was perfectly right, that that omission was not inadvertent. I did not certainly go into the question of motive. I was not here to conduct a prosecution. I was here to conduct an enquiry and to lay before this Commission certain evidence by which the Members of it might be able to judge whether or not there was any truth in the motives imputed to His Highness. If the evidence which I was instructed to lay before this Commission were true, that evidence would disclose in the case of the Maharaja material from which you could form a clear opinion as to the motives by which His Highness had been animated; and I think that the evidence has conclusively shown, and more particularly the evidence adduced by my learned friend, what strong motives existed in the mind of the Maharaja for desiring to get rid of Colonel Phayre. Apart from the witnesses concerned in these transactions, my learned friend has referred to documents which, I think, establish in the clearest manner how eager in his desire to get rid of Colonel Phayre His Highness was, and upon this matter I need scarcely do more than refer to the khureeta of the 2nd November 1874, put in by my learned friend, and which is marked No. 1. In that khureeta His Highness describes Colonel Phayre as his persecutor—his persecutor with a determined and strong will and purpose—and says “that he should now be made to sit in judgment upon me is, I must submit, simply unfair.” In the same khureeta His Highness is made to say that “his efforts to carry on the administration according to the advice of the Viceroy would be hopeless if Colonel Phayre were to continue here as representative of the paramount power with his uncompromising bias against me and my officials.” He complains also of the harassing and obnoxious treatment he was receiving at the Resident's hands. It is pretty clear therefore that although His Highness does not in this document say he has any personal enmity to Colonel Phayre, yet he had the greatest objection to his remaining here as Resident, and considered it was unfair to him that he should be retained in his position. It is difficult in a case of this kind to distinguish between a political and a personal objection. In the plea which has been put in on behalf of His Highness he states the matter in these words: “I never had, nor I have now, any personal enmity towards Colonel Phayre. It is true that I and my ministers were convinced that owing to the position taken up by Colonel Phayre during his Residency, it would be impossible satisfactorily to carry out the reforms I had instituted, and was endeavouring to complete in deference to the authoritative advice conveyed to me in the khureeta of the 25th July 1874, consequent upon the report of the Commission of 1873.” When Colonel Phayre was in the witness-box (not a single question was put to him—and indeed no question could be put to him—as to whether he had hampered or interfered with His Highness after the khureeta passed at the conclusion of Colonel Meade's Commission. Although I see now in this Court the three gentlemen mentioned in the khureeta, Mr. Dadabhoy Nowrojee, Mr. Bala Mungesh Wagle, and Mr. Hormusjee Ardaseer Wadia, I have not seen one of these gentlemen placed in the witness-box to corroborate the statement that Colonel Phayre was interfering with their efforts to reform



the State. I can only assume, what I apprehend to be the fact, that there was no foundation whatever for such statement on the part of His Highness. His Highness goes on to say: "This conviction was shared by all my ministers, and was strengthened by our knowledge of the severe censure which had been passed on Colonel Phayre by the Bombay Government. The removal of Colonel Phayre on the 25th November 1874 shows that our judgment was not erroneous." His Highness does not condescend to state what that severe censure is, but I presume he alludes to that mutilated Resolution of the Bombay Government passed in May 1872 which had come into his hands, nor does he say from what source he had obtained it, or how it was that his attention had been directed to it. Colonel Phayre has told us—and his statement will be believed—that a document of this kind would not be communicated to the Gaekwar in the ordinary course of business. His Highness could have nothing to do with the administration of Upper Sind; and this document would not be one that would be communicated to him, especially as it reflected upon the character of the officer who had been appointed by the very Government by which this Resolution was passed to represent British interests. It cannot be supposed that the Bombay Government would communicate to the Gaekwar a Resolution so injurious to the character of its own representative at this Court. Not being told when or how this document passed into the possession of His Highness, it is impossible to say—and in point of fact it has not been said by His Highness—whether this document was in his possession at the time the khureeta of the 2nd November was despatched, or whether it has come into his possession since the commencement of these proceedings. Certainly, if it had been communicated by the Government of Bombay to His Highness, it would not have been sent to him in the mutilated and garbled form in which it was placed in the hands of my learned friend. In a question put to Colonel Phayre by my learned friend he was asked whether this document had not been shown by Mr. Dadabhoy to Colonel Pelly. But Sir Lewis Pelly was not examined upon the point, nor has Mr. Dadabhoy Nowrojee been put in the witness-box for examination regarding this matter. It may be that this excerpt from the true Resolution may have come into the hands of His Highness through Mr. Dadabhoy; still we are not told whether at the time of the khureeta of 2nd November it was in the possession either of His Highness or Mr. Dadabhoy Nowrojee; and therefore it is impossible to say whether it could have had any effect in influencing His Highness in forming that khureeta. If it was obtained before the khureeta was passed, it certainly does afford some confirmation of the charges to which I referred yesterday, not so much in regard to having improper communications with the Residency servants, as to having improper communications with Government servants other than Residency servants; and in that way it certainly affords strong color to the truth of the statements made by the ayah, the havildar, and others, that they were retailing not merely gossip at the table, but also conveying State papers of importance. But however this may be, it is idle to suppose that either the Gaekwar or the framer of the khureeta, which my learned friend has justly described as a document admirably well composed for the purpose it was intended to serve, must have been acquainted with the existence of the Resolution before the penning of the khureeta. We are, however, thrown back upon this consideration that, whatever the opinion of the Bombay Government might have been about Colonel Phayre in May 1872, the Gaekwar and his advisers, had they possessed the sagacity with which they ought to be credited, should have known that although, in Indian *parlance*, a "wiggling" had been administered to Colonel Phayre, yet the confidence in him of Government had not been shaken, because he was afterwards appointed by the same Government to a post of greater responsibility and emolument than that which he held in Upper Sind. It must occasionally happen to many men who are officials to receive censure more or less strong and expressed in merciless terms, but in this particular case we have the history of the circumstances under which this censure was passed, and it may be worth

while to allude to them. The Resolution was passed when Colonel Phayre was absent from India, and when he had had no opportunity of making an explanation. On his return to India, some six months later, having in the meanwhile heard that this Resolution against him was in existence, he asked for a copy and obtained it, and thereupon made such explanations regarding it as, I feel compelled to say, would, had they been known before, have prevented that Resolution from ever being passed. The result was that he obtained from that same Government a most complete exoneration from the censure which had been passed upon him in the Resolution of the previous May. The best proof that the exoneration was complete is, that although upon a question of policy—in regard to the justification of which your Lordship probably read in the newspapers the other day—it was not considered desirable that he should return to Sind, yet he was posted to Pahlunpore upon the same pay and emolument as he had in Sind, and was promoted thence to the distinguished post he held in Baroda.

Now, my Lord, to a sagacious mind, not fully cognisant of the whole of the circumstances of the case, the appointment of Colonel Phayre to Baroda would of itself have been proof positive that the censure was withdrawn, and if any proof were necessary that Colonel Phayre at the time of his employment at Baroda possessed in the fullest degree the confidence of the Government, it is supplied by what my learned friend elicited for us regarding the circumstances which took place at Nowsaree. There we had the marriage of His Highness to Luxmibae. Acting under the orders of Government, Colonel Phayre was not present on this occasion, and than this circumstance nothing could have occurred more likely to excite the anger of the Gaekwar. He complained of it in a khureeta addressed to the Government of India on the 9th May 1874 as a mark of want of respect and insult to himself. Then would have been the time at which the Government could have expressed their want of confidence in Colonel Phayre. But what was the result? In spite of this bitter complaint about Colonel Phayre's conduct at the time of the marriage, the Government of India fully approved of Colonel Phayre and informed the Gaekwar he had been acting strictly in conformity with his instructions. Whatever effect therefore might seem to have been created at the first blush by the fact that there was on the records of Government the Resolution of May 1872, even if Colonel Phayre's position here had not been sufficient proof that that censure was practically withdrawn, you have the fact that in the Resolution of the Government of India I have just referred to it was intimated that Colonel Phayre had done perfectly right. The Maharaja had therefore the full assurance of Government that Colonel Phayre had done right and would be upheld in his proceedings at Baroda. Now let me in this connection direct the attention of the Commission to an important date. It was in the month of May the Maharaja was married; and on the 16th October a son was born to that marriage. It follows that the mother not having been recognised by the British Government, the son, as a matter of necessary consequence, would not be recognised; and this fact occurring on the 16th October, at a time when we find according to the evidence that the Maharaja was complaining to the Residency servants that the Sahib was practising great *zoolum*, shows pretty clearly how the mind of His Highness was working. He attributed it to Colonel Phayre that his marriage was not recognised; and he would also attribute it to him that his no doubt much-hoped-for son would not be recognised either. He had therefore the strongest impulse that could have moved an Asiatic Prince to desire the removal of a Resident who had recognised neither son nor mother. That date—the 16th October—may be regarded as very much furnishing a key to the whole of the conduct of His Highness. Now, my Lord, with this idea in his mind, I think the conduct of the Gaekwar would be comprehensible. It is tolerably clear that, whatever the desire of His Highness for reforms might be, Damodhur Punt would not be the person to whom he would apply for assistance in that respect; for he would rely in such a matter upon Mr. Dadabhoy Nowrojee, while in other matters, apart from public affairs, he would turn to his private secretary: and it is by no means

an improbable thing that, while, on the one hand, he should be, with the assistance of Mr. Dadabhoy Nowrojee, writing well-penned khureetas, he should at the same time be adopting a very different, and what to his mind would represent itself as much more safe and reliable, course together with Damodhur Punt. There is nothing improbable in that. I think that the evidence points to it clearly that, while His Highness was walking in one direction with his minister, he was walking in an entirely different direction, led, it may be, by the hand of his private secretary. In point of fact, we find that at the very time he was complaining of the Sahib's practising *zoolum* he was instructing Mr. Dadabhoy Nowrojee to prepare the khureeta of the 2nd November. Probably, to judge by the May khureeta, he did not expect to meet with any great success in his complaints in this subsequent khureeta, and that this was so appears to be tolerably clear from a passage in Colonel Phayre's evidence, to which I shall presently refer. In regard to the khureeta of the 2nd November, beside the general complaint of Colonel Phayre to which I have already referred, two particular instances are given in which his interferences are represented as entirely objectionable and unnecessary. The instances are in regard to a Sirdar named Chunderao and some Sindhee cultivators. Colonel Phayre was asked by me whether the statements in regard to these two charges were true, and he said (see page 52 of the notes) that these matters were entirely untrue as they were stated in the khureeta. It might have been easy to disprove that statement, if it were possible to disprove it at all. We have Mr. Dadabhoy Nowrojee here, who had the means of justifying the statements made in that khureeta; but he has not been called, and we have had no opportunity of gaining any further information upon that statement beyond Colonel Phayre's assertion that it was unfounded. Now, my Lord, that the Gaekwar had not much belief in the effect of this khureeta is clear from the conversation between him and Colonel Phayre after it had been despatched. The conversation is at page 62 of the notes. Colonel Phayre is asked:—"Had you at any time any conversation with His Highness the Gaekwar with regard to that khureeta of the 2nd of November?—Yes, I had. Let me ask you this. All these khureetas are translated and sent to you?—All are sent through me, and copies are given for my information. When did you have your conversation with His Highness in regard to this khureeta?—The first day that he came after I received it. It was on Monday the 5th November—no, it was Thursday the 5th November. Will you tell us what the conversation was, or the substance of it?—I merely mentioned to His Highness about the khureeta, and I expressed my extreme regret to think that such a khureeta had been sent, and the conversation was to the purport that the allegations were not correct. What did the Gaekwar say in regard to that?—The Gaekwar said that it was Mr. Dadabhoy Nowrojee, his minister, who had written it, and he was responsible for it. I then explained to His Highness that the object of allowing him to select his own minister was that he himself was to be responsible for all communications made to His Excellency the Viceroy and to the Government of Bombay." We thus find that within three days after the khureeta was written the Gaekwar, so far as he possibly could, disavowed all responsibility for it. It is pretty clear therefore that he did not attach much importance to it, and did not expect much fruit to come of it. That he was right is shown by the khureeta of the 25th November 1874, in which it is shown that, though Government practically complied with his request by removing Colonel Phayre, they deemed it unnecessary to discuss with His Highness their reasons for desiring a change in the Baroda Residency. I say therefore, my Lord, that the suggestion that the Maharaja was relying upon the effect of those khureetas to obtain the removal of Colonel Phayre is entirely unsupported by evidence in the case, and is inconsistent with the inference to be drawn from that evidence. No doubt His Highness may have considered it desirable to have two strings to his bow—that Mr. Dadabhoy Nowrojee should be working for him in a straightforward and honest way, while Damodhur Punt should be working in an entirely opposite direction. But to